

1 NOT FOR PUBLICATION
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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Raymond M. Conoboy,

10 Plaintiff,

11 v.

12 Charles L. Ryan, *et al.*,

13 Defendants.
14

No. CV-16-01164-PHX-JJT

ORDER

15 At issue is the Report and Recommendation (“R&R”) prepared in this matter by
16 United States Magistrate Judge Deborah M. Fine (Doc. 26), which recommends that this
17 Court dismiss Defendant Unknown Brown from the matter for failure to serve summons
18 and failure to prosecute the case against Brown.

19 The time for any party to file objections to the R&R ran as of November 8, 2016.
20 No party filed any objections, either as of that date or at any time thereafter. Such failure
21 to file objections to the R&R is considered a waiver of a party’s right to *de novo*
22 consideration of the issues. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.
23 2003) (*en banc*). It also constitutes a waiver of a party’s right to appellate review of the
24 findings of fact in an order or judgment entered pursuant to the R&R. *See Robbins v.*
25 *Carey*, 481 F.3rd 1143, 1146-47 (9th Cir. 2007). Nonetheless, this Court has undertaken a
26 substantive review of the factual and legal issues presented in R&R. Upon that review,
27 the Court concludes that Magistrate Judge Fine’s recommendations are wholly sound.
28 The Court adopts in whole Judge Fine’s R&R and the underlying reasoning. The Court

1 expressly finds that Plaintiff's failure to serve Unknown Brown in violation of Rule 4(m),
2 Fed. R. Civ. P., LRCiv 16.2 and the Court's Screening Order of June 8, 2016 (Doc. 9), as
3 well as the Order to Show Cause issued August 22, 2016 (Doc. 18), justifies dismissal of
4 Defendant Brown.

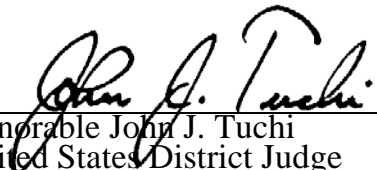
5 IT IS ORDERED adopting the R&R (Doc. 26) in whole.

6 IT IS FURTHER ORDERED dismissing Defendant Unknown Brown.

7 IT IS FURTHER ORDERED denying a Certificate of Appealability upon the
8 Court's conclusion that jurists of reason would not find its assessment of the
9 constitutional claims to be debatable or wrong.

10 Dated this 15th day of February, 2017.

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Honorable John J. Tuchi
United States District Judge