

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Alfredo Garcia,
Plaintiff,
v.
Corizon Health Services, et al.,
Defendants.

No. CV-16-4569-PHX-DJH (JFM)

ORDER

This matter is before the Court on the Report and Recommendation re Screening of First Amended Complaint (“R&R”) issued by United States Magistrate Judge James F. Metcalf on July 13, 2017. (Doc. 15). In the R&R, Judge Metcalf screened the First Amended Complaint (Doc. 14) and recommends that Counts Two, Three, and Four be dismissed without prejudice after finding that Counts Two and Three are duplicative of Count One and that Count Four fails to state a claim for relief. He further recommends that Defendants Ryan, Pratt, Mendoza and Thomas be dismissed without prejudice. Based on Judge Metcalf’s recommendations, Count One against Defendant Corizon Health Services would be the only remaining claim and defendant in this action.

Judge Metcalf advised the parties that the parties had fourteen days to file objections and that the failure to file timely objections "will be considered a waiver of a party's right to *de novo* consideration of the issues." (Doc. 15 at 9) (citing *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*)). No objections have been filed and the time to do so has expired. Absent any objections, the Court is not required

1 to review the findings and recommendations in the R&R. *See Thomas v. Arn*, 474 U.S.
2 140, 149 (1989) (The relevant provision of the Federal Magistrates Act, 28 U.S.C. §
3 636(b)(1)(C), “does not on its face require any review at all . . . of any issue that is not the
4 subject of an objection.”); *Reyna-Tapia*, 328 F.3d at 1121 (same); Fed.R.Civ.P. 72(b)(3)
5 (“The district judge must determine de novo any part of the magistrate judge’s
6 disposition that has been properly objected to.”).

7 Nonetheless, the Court has reviewed the R&R and agrees with its findings and
8 recommendations. The Court will, therefore, accept the R&R and adopt Judge Metcalf’s
9 recommendations. *See* 28 U.S.C. § 636(b)(1)(C) (“A judge of the court may accept,
10 reject, or modify, in whole or in part, the findings or recommendations made by the
11 magistrate judge.”); Fed.R.Civ.P. 72(b)(3) (same).

12 Accordingly,

13 **IT IS ORDERED** that Magistrate Judge Metcalf’s R&R (Doc. 15) is **accepted**
14 and **adopted** as the order of this Court.

15 **IT IS FURTHER ORDERED** that Counts Two, Three, and Four of the First
16 Amended Complaint are **DISMISSED WITHOUT PREJUDICE**.

17 **IT IS FURTHER ORDERED** that Defendants Ryan, Pratt, Mendoza and
18 Thomas are **DISMISSED WITHOUT PREJUDICE**.

19 **IT IS FINALLY ORDERED** that Defendant Corizon Health Services must
20 respond to Count One of the First Amended Complaint within **14 days** of the date of this
21 Order. (*See* Doc. 18 at 2).

22 Dated this 19th day of October, 2017.

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25 
26 Honorable Diane J. Humetewa
27 United States District Judge
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