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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

George Allen Hartman,
Plaintiff,
v.
United States Customs and Border Protection , et
al.,
Defendants,

CV 14-2090 TUC DCB
ORDER

On June 30, 2015, the Honorable Charles R. Pyle, United States Magistrate Judge, filed a Report and Recommendation in this action. The Report and Recommendation advised this Court that the parties agreed to dismissal of all the Plaintiff's claims, except for his Federal Tort Claims Act (FTC) claim of battery brought against the Defendant, the United States of America. Plaintiff alleges that on April 11, 2011, he was physically injured during an encounter with federal agents from United States Customs and Border Protection (CBP) or United States Immigration and Customs Enforcement (ICE). Plaintiff alleges he suffered a severe head injury diagnosed as a post-concussive syndrome that resulted in episodes over the following year of passing out, hearing and sight problems, and forgetting things, and resulted in his passing out while riding his motorcycle on April 12, 2012.

The Magistrate Judge directed Plaintiff to file an Amended Complaint to omit allegations pertaining to the dismissed claims and to disclose an expert opinion establishing a causal link between the battery claim and the April 12-motorcycle accident.

The parties were sent copies of the R&R and instructed that, pursuant to 28 U.S.C. § 636(b), they had 14 days to file written objections to the R&R. *See also*, Federal Rule of Civil

1 Procedure 72(b) (party objecting to the recommended disposition has ten (10) days to file
2 specific, written objections). To date, no such objections have been filed.

3 Pursuant to 28 U.S.C. § 636(b), this Court makes a *de novo* determination as to those
4 portions of the R&R to which there are objections. 28 U.S.C. § 636(b)(1)(C) ("A judge of the
5 court shall make a de novo determination of those portions of the report or specified proposed
6 findings and recommendations to which objection is made.") To the extent that no objection
7 has been made, arguments to the contrary have been waived. *McCall v. Andrus*, 628 F.2d 1185,
8 1187 (9th Cir. 1980) (failure to object to Magistrate's report waives right to do so on appeal); *see*
9 *also*, Advisory Committee Notes to Fed. R. Civ. P. 72 (citing *Campbell v. United States Dist.*
10 *Court*, 501 F.2d 196, 206 (9th Cir. 1974) (when no timely objection is filed, the court need only
11 satisfy itself that there is no clear error on the face of the record in order to accept the
12 recommendation).

13 The Court has reviewed the Magistrate Judge's recommendation that the Court approve
14 the parties' agreements to dismissal of claims, that the Plaintiff file an amended complaint, and
15 that he disclose a medical expert's opinion linking the battery to the motorcycle accident. The
16 Court considers the R&R to be thorough and well-reasoned; it is neither clearly erroneous nor
17 contrary to law. *United States v. Remsing*, 874 F.2d 614, 617-618 (9th Cir. 1989). It shall,
18 therefore, be accepted pursuant to 28 U.S.C. § 636(b)(1). The Court adopts it. For the reasons
19 stated in the R&R, the Court dismisses Plaintiff's claims except for the FTCA battery claim and
20 directs the Plaintiff to comply with the directives from the Magistrate Judge, including filing
21 an Amended Complaint.


22 **Accordingly,**

23 **IT IS ORDERED** that the Report and Recommendation (Doc. 22) is adopted as the
24 opinion of the Court.

25 **IT IS FURTHER ORDERED** that the Defendants' Partial Motion to Dismiss (Doc. 12)
26 is GRANTED IN PART AND DENIED IN PART, as follows: 1) granted as to the First through
27 Third and Fifth through Ninth Causes of Action are dismissed with prejudice; 2) granted as to
28 all Defendants except the United States of America, with Defendants CBP, ICE, United States

1 Department of Homeland Security, and Unknown Named Agents John Does 1-10 being
2 dismissed, and 3) Plaintiff has leave to file an Amended Complaint.

3 DATED this 30th day of September, 2015.

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7 David C. Bury
8 United States District Judge
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