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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

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|------------------------|---|------------------------------|
| RUBEN MORENO, |) | CV 13-1505-GAF (SH) |
| |) | |
| Plaintiff, |) | ORDER ACCEPTING REPORT AND |
| |) | RECOMMENDATION OF UNITED |
| v. |) | STATES MAGISTRATE JUDGE; and |
| |) | ORDER |
| JEFFREY BEARD, et al., |) | |
| |) | |
| Defendants. |) | |

Pursuant to 28 U.S.C. Section 636(b)(1)(C), the court has reviewed the First Amended Complaint and other papers along with the attached Report and Recommendation of the United States Magistrate Judge, and has made a de novo determination of the Report and Recommendation.

IT IS HEREBY ORDERED that:

1. The Report and Recommendation is approved and accepted.
2. Plaintiff's First Amended Complaint is dismissed with leave to amend for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B).

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2 3. Plaintiff's official capacity claims, his due process claim, and his
3 monetary relief claims under the California Constitution are dismissed
4 without leave to amend.

5 If Plaintiff wishes to pursue this action in this court, he must file a second
6 amended complaint within thirty days of the date this Order Accepting the Amended
7 Report and Recommendation is filed. The amended complaint, bearing the number
8 CV 13-1505-GAF (SH), must be a complete and independent document and must
9 not refer to prior pleadings. Plaintiff is cautioned that failure to file a second
10 amended complaint within the time specified by this Order may result in dismissal
11 of the action with prejudice on the grounds stated in the Report and
12 Recommendation of the United States Magistrate Judge and/or for failure to
13 prosecute.

14 In preparing a second amended complaint, Plaintiff must bear in mind the
15 deficiencies of the current pleading, and must assure that they are not repeated.
16 Plaintiff must take particular note of the following guidelines:

- 17 1. Plaintiff must set forth the jurisdictional grounds for his claims at the
18 outset of the complaint.
- 19 2. The complaint must include only factual allegations directly relevant
20 to Plaintiff's claims, which must be stated in separate, numbered
21 paragraphs (preferably in chronological order), each limited to a single
22 set of circumstances. The facts should be stated in simple, complete
23 sentences. Repetition is to be avoided.
- 24 3. The complaint must clearly identify the specific acts on which each
25 claim is based. Insofar as possible, the allegations should include the
26 date, time, place and circumstances of the offending conduct by each
27 defendant, a clear statement of what each defendant did or failed to do,
28 and the damage of injury suffered by Plaintiff as a result of each

1 defendant's conduct.

- 2 4. If civil rights violations are claimed, the complaint must specifically
3 set forth the federal constitutional right or rights infringed with respect
4 to each alleged wrongful act or omission.

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6 IT IS FURTHER ORDERED that the Clerk shall serve forthwith a copy of
7 this Order on the Plaintiff and counsel for Defendants.

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9 DATED: February 18, 2014

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13 GARY A. FEESS
14 UNITED STATES DISTRICT JUDGE
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