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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION

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|----------------------|---|---------------------------------|
| JAMES G. GARCIA,     | } | No. ED CV 13-01610-JFW (DFM)    |
| Plaintiff,           |   | Order Accepting Report and      |
| v.                   |   | Recommendation of United States |
| MATTHEW CATE et al., |   | Magistrate Judge                |
| Defendant.           |   |                                 |

Pursuant to 28 U.S.C. § 636(b)(1), the Court has reviewed the pleadings, the records on file, and the Report and Recommendation of the previously-assigned United States Magistrate Judge. Further, the Court has engaged in a de novo review of those portions of the Report and Recommendation to which objections have been made. The Court accepts the findings and recommendation of the Magistrate Judge.

IT IS HEREBY ORDERED that:

1. The Magistrate Judge’s Report and Recommendation is approved and accepted.
2. Defendants’ motion to dismiss is granted in part and denied in

1 part as follows:

2 a. the federal claims against defendants Woolridge, Patterson,  
3 Lee, and Tolentino are dismissed for failure to exhaust administrative  
4 remedies, without leave to amend but without prejudice;

5 b. the federal claims against defendants Cate and Chaffe are  
6 dismissed without leave to amend;

7 c. the state-law claims against defendants Chambers,  
8 Woodridge, M. Smith, Lee, and Tolentino are dismissed without leave to  
9 amend but without prejudice; and

10 d. Plaintiff's request for injunctive relief against the chief  
11 medical executive of the California Medical Facility at Vacaville is stricken  
12 without leave to amend.

13 3. Plaintiff is granted leave to file, within thirty (30) days of this  
14 Order, a Third Amended Complaint asserting solely the following claims  
15 against the following defendants: (a) Eighth Amendment claims against  
16 defendants Long, Montgomery, S.M. Smith, Lopez, and Nunez; and (b) state-  
17 law negligence claims against defendants Cate, Long, Montgomery, S.M. Smith,  
18 Lopez, Nunez, Patterson, and Chaffe.

19  
20 Dated: October 13, 2015



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JOHN F. WALTER  
23 United States District Judge  
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