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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DANIEL J. TANNER,

Plaintiff,

v.

VICKI HIGHTOWER, et al.,

Defendants.

Case No. EDCV 15-183 JAK(JC)

ORDER ACCEPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Second Amended Complaint, the Magistrate Judge’s September 14, 2015 Order to Show Cause and October 5, 2015 Order Directing Supplemental Briefing (“Magistrate Judge’s Orders”), the parties’ briefing relative to the Second Amended Complaint and in response to the Magistrate Judge’s Orders, and all of the records herein, including the December 13, 2016 Report and Recommendation of United States Magistrate Judge (“Report and Recommendation”) and petitioner’s Objections to the Report and Recommendation (“Objections”). The Court has further made a *de novo* determination of those portions of the Report and Recommendation to which objection is made. The Court concurs with and accepts the findings, conclusions, and recommendations of the United States Magistrate Judge and overrules the Objections.

1 IT IS HEREBY ORDERED: (1) the Second Amended Complaint is
2 dismissed with leave to amend; and (2) within fourteen (14) days of the date of this
3 Order, plaintiff shall (a) file a Third Amended Complaint curing the deficiencies
4 identified in the Report and Recommendation if he wishes to proceed with this
5 action and can cure such deficiencies;¹ or (b) sign and return the Notice of
6 Dismissal attached to the Report and Recommendation which will result in the
7 voluntary dismissal of this action without prejudice if he no longer wishes to
8 proceed with this action.

9 **Plaintiff is cautioned that, absent further Order of the Court, the failure**
10 **timely to file a Third Amended Complaint or a Notice of Dismissal will result**
11 **in the dismissal of this action with or without prejudice on the grounds set**
12 **forth in the Report and Recommendation and/or for failure diligently to**
13 **prosecute and/or for failure to comply with the Court's Orders.**

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21 ¹Any Third Amended Complaint must: (a) be labeled "Third Amended Complaint"; (b)
22 be complete in and of itself and not refer in any manner to the Original, the First Amended, or the
23 Second Amended Complaints – *i.e.*, it must include all claims on which plaintiff seeks to proceed
24 (Local Rule 15-2); (c) contain a "short and plain" statement of the claim(s) for relief (Fed. R. Civ.
25 P. 8(a)); (d) make each allegation "simple, concise and direct" (Fed. R. Civ. P. 8(d)(1));
26 (e) present allegations in numbered paragraphs, "each limited as far as practicable to a single set
27 of circumstances" (Fed. R. Civ. P. 10(b)); (f) state each claim founded on a separate transaction or
28 occurrence in a separate count as needed for clarity (Fed. R. Civ. P. 10(b)); (g) set forth clearly
the sequence of events giving rise to the claim(s) for relief; (h) allege specifically what each
individual defendant did and how that individual's conduct specifically violated plaintiff's civil
rights; and (i) not change the nature of this suit by adding new, unrelated claims or defendants, cf.
George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007) (civil rights plaintiff may not file "buckshot"
complaints – *i.e.*, a pleading that alleges unrelated violations against different defendants).

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IT IS FURTHER ORDERED that the Clerk serve copies of this Order and the Report and Recommendation on plaintiff and counsel for defendants.

IT IS SO ORDERED

DATED: January 24, 2017



HONORABLE JOHN A. KRONSTADT
UNITED STATES DISTRICT JUDGE