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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ARTHUR PETROSYAN,)	Case No.: 1:09-cv-00593 – AWI – JLT (PC)
)	
Plaintiff,)	ORDER DIRECTING DEFENDANTS TO FILE
)	A SUBSTANTIVE REPLY TO PLAINTIFF’S
v.)	OBJECTIONS
)	
ALI, et al.,)	(Doc. 79)
)	
Defendants.)	
)	
)	

On February 19, 2013, Defendants Ali, Grannis, Youssef, and Zamora (collectively “Defendants”) filed their motion to dismiss pursuant to Fed.R.Civ.P. 12(b), which the Court subsequently referred to the Magistrate Judge. (Docs. 52, 66). Plaintiff opposed on the motion to dismiss and presented a number of evidentiary objections on August 2, 2013. (Doc. 71). The Magistrate Judge issued a Findings and Recommendation granting Defendants’ motion to dismiss to which the Plaintiff now objects. (Docs. 78, 79).

In his objections to the Findings and Recommendations, Plaintiff argues he was not required to appeal the Director’s Level rejection or cancellation of Institution Log No. KVSP-O-07-02123 given the state of the law in March 2008. (Doc. 79 at 3-4). He further notes that Defendants failed to define what constitutes a “final decision” at the Director’s Level. *Id.* Indeed, a review of the pleadings indicates that Defendants failed to provide any statutory authority to demonstrate that Plaintiff was explicitly required to appeal the cancellation or rejection of Log No. KVSP-O-07-02123 at the Third

1 Level in 2008 or 2009. Furthermore, Defendants fail to indicate whether Log No. KVSP-O-07-02123
2 was timely appealed from the Second Level to the Third Level.

3 **ORDER**

4 Accordingly, it is **HEREBY ORDERED** that:

- 5 1. Defendants **SHALL FILE** a substantive response to Plaintiff's Objections (Doc. 79) on or
6 before Monday, September 23, 2013;
- 7 2. In their response, at a minimum, Defendants **SHALL** address the argument that the
8 California regulations in March 2008 did not require Plaintiff to appeal a cancellation or
9 "screen-out" decision made *at the Director's Level* and specifically cite—and attach copies
10 of—the regulations in place at that time which required the appeal, if any.

11
12 IT IS SO ORDERED.

13 Dated: September 16, 2013

/s/ Jennifer L. Thurston
14 UNITED STATES MAGISTRATE JUDGE