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

WILLIAM P. GARCIA,  
Plaintiff,  
v.  
KEN CLARK, et al.,  
Defendants.

Case No. 1:10-cv-00447 LJO DLB PC  
ORDER WITHDRAWING FINDINGS AND  
RECOMMENDATION ISSUED ON  
NOVEMBER 21, 2013  
[ECF No. 136]

Plaintiff William P. Garcia (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on March 12, 2010.

On October 14, 2013, Defendants filed a motion to dismiss. ECF No. 132. On November 21, 2013, the Court issued a Findings and Recommendation which recommended the motion be denied as untimely. On December 5, 2013, Defendants filed objections to the Findings and Recommendation. Plaintiff filed a reply on December 18, 2013. Defendants object that their motion is based on a lack of subject matter jurisdiction and argue that such a motion can be raised at any

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1 time. Fed. R. Civ. P. 12(i). In light of Defendants' objections, the Court hereby WITHDRAWS the  
2 Findings and Recommendation issued on November 21, 2013.  
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4 IT IS SO ORDERED.

5 Dated: December 25, 2014

/s/ Dennis L. Beck  
6 UNITED STATES MAGISTRATE JUDGE  
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