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

ANTHONY NGUYEN,  
Plaintiff,  
v.  
M. D. BITER,  
Defendant.

Case No. 1:11-cv-00809-AWI-SKO PC

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DENYING  
DEFENDANT’S MOTION TO DISMISS,  
DENYING DEFENDANT’S MOTION TO  
STRIKE, DENYING PLAINTIFF’S MOTION  
TO STRIKE, AND DENYING PLAINTIFF’S  
MOTION FOR SANCTIONS**

(Docs. 79, 80, 88, 90, 91, and 94 )

**ORDER REQUIRING DEFENDANT TO  
FILE ANSWER WITHIN THIRTY DAYS**

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Plaintiff Anthony Nguyen (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on May 18, 2011. This action is proceeding against Defendant Biter (“Defendant”) for violation of the Eighth Amendment of the United States Constitution.

The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. On October 16, 2013, the Magistrate Judge filed a Findings and Recommendations which was served on the parties and which contained notice to the parties that Objections to the Findings and Recommendations were to be filed within ten days. No Objections were filed.

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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a  
2 *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings  
3 and Recommendations to be supported by the record and by proper analysis.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The Findings and Recommendations, filed on October 16, 2013, is adopted in full;
- 6 2. Defendant's motion to dismiss for failure to state a claim, filed on March 18, 2013,  
7 is DENIED;
- 8 3. Defendant's motion to strike Plaintiff's surreply, filed on May 21, 2013, is  
9 DENIED as moot;
- 10 4. Plaintiff's motion to strike Defendant's reply, filed on May 30, 2013, is DENIED;
- 11 5. Plaintiff's motion for sanctions, filed on July 5, 2013, is DENIED; and
- 12 6. Defendant shall file an answer within **thirty (30) days** from the date of service of  
13 this order.

14 IT IS SO ORDERED.

15 Dated: December 3, 2013

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18 SENIOR DISTRICT JUDGE

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