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

RICHARD NUWINTORE,	)	Case No.: 1:13-cv-00967 - AWI - JLT
Plaintiff,	)	
v.	)	ORDER TO SHOW CAUSE WHY THE MOTION
	)	TO DISMISS SHOULD NOT BE DENIED AS
UNITED STATES OF AMERICA, et al.,	)	MOOT AND THE ALLEGATIONS AGAINST
Defendants.	)	THE USA SET FORTH IN THE SECOND
	)	AMENDED COMPLAINT DEEMED DISMISSED
	)	
	)	
	)	

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On March 18, 2014, the Court issued findings and recommendations that the motion to dismiss (Doc. 30) filed by Defendant, United States of America, be granted. (Doc. 47) Before this, on February 28, 2014, the Court issued findings and recommendations that the motion to strike the punitive damages request (Doc. 28) filed by Defendant, Management & Training Corporation, be granted. (Doc. 43) The court adopted the findings and recommendation as to this latter motion on April 3, 2014 and granted 14 days leave to amend. (Doc. 51)

Plaintiff filed his second amended complaint on April 17, 2014. (Doc. 52) Because the findings and recommendations related to the USA’s motion to dismiss had not yet been adopted, Plaintiff included allegations against this defendant in the second amended complaint. (Docs. 52, 57) The USA immediately filed a motion to dismiss the second amended complaint. (Doc. 54)

At the scheduling conference—and on the record—Plaintiff agreed that the second amended complaint addressed the USA only because the findings and recommendations (Doc. 47) had not yet

1 been adopted. (Doc. 57; Doc. 58 at 8) The parties stipulated that the order adopting the findings and  
2 recommendations would be deemed to address the second amended complaint and the motion to  
3 dismiss this complaint. Id.

4 In light of the order adopting the findings and recommendations issued on May 23, 2014 (Doc.  
5 66) and the stipulation of the Plaintiff, the Court **ORDERS:**

6 1. Within 10 days, Plaintiff and Defendant USA, SHALL show cause in writing why the  
7 motion to dismiss the second amended complaint should not be denied as moot and any allegations  
8 made against the USA in the second amended complaint should not be deemed stricken.

9  
10 IT IS SO ORDERED.

11 Dated: May 27, 2014

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE