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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JEFF ELIAS,

Plaintiff,

vs.

VAZRICK NAVASARTIAN, et al.,

Defendants.

1:15-cv-01567-LJO-GSA-PC

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS  
(ECF No. 32.)**

**ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANT  
DUBIEL’S RULE 12(b)(6) MOTION TO  
DISMISS  
(ECF No. 13.)**

Jeff Elias (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. 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 February 17, 2017, findings and recommendations were entered, recommending that Defendant Dubiel’s Rule 12(b)(6) motion to dismiss be granted in part and denied in part. (ECF No. 32.) The parties were granted fourteen days in which to file objections to the findings and recommendations. (*Id.*) To date, no objections have been filed.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and proper analysis.

1 Accordingly, **THE COURT HEREBY ORDERS** that:

- 2 1. The Findings and Recommendations issued by the Magistrate Judge on February  
3 17, 2017, are ADOPTED IN FULL;
- 4 2. Defendant Dubiel's motion to dismiss, filed on May 5, 2016, is GRANTED in  
5 part and DENIED in part;
- 6 3. Defendant Dubiel's motion to dismiss Plaintiff's claims for punitive damages  
7 under Rule 12(b)(6) is DENIED;
- 8 4. Defendant Dubiel's motion to dismiss under California Civil Procedure Code §  
9 425.13 is GRANTED and Plaintiff's medical negligence claim for punitive  
10 damages against defendant Dubiel is DISMISSED; and
- 11 5. This case is referred back to the Magistrate Judge for further proceedings.

12 IT IS SO ORDERED.

13  
14 Dated: March 13, 2017

/s/ Lawrence J. O'Neill  
15 UNITED STATES CHIEF DISTRICT JUDGE