## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

| RANDY STOOPS,           | ) Case No.: 1:16-cv-01026-AWI-SAB (PC)   |
|-------------------------|--|
| Plaintiff,              | ORDER ADOPTING FINDINGS AND RECOMMENDATIONS AS MODIFIED,   |
| v.                      | ALLOWING ACTION TO PROCEED ON  |
| STUART SHERMAN, et al., | <ul> <li>PLAINTIFF'S ADA AND NEGLIGENCE</li> <li>CLAIMS AGAINST DEFENDANT SHERMAN</li> <li>ONLY AND DISMISSING ALL OTHER CLAIMS</li> </ul> |
| Defendants.             | ) AND DEFENDANTS   |
|                         | ) [Doc. Nos. 1, 10, 11, 12, 13]  |

Plaintiff Randy Stoops is appearing pro se and in forma pauperis 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 January 4, 2017, the Magistrate Judge filed a Findings and Recommendations which recommended that this action proceed only on Plaintiff's claim under the American with Disabilities Act (ADA) against Defendant Stuart Sherman, and all other claims and defendants be dismissed from the action. The Findings and Recommendations were served on Plaintiff and contained notice that objections were to be filed within thirty days. On January 13, 2017, Plaintiff filed objections. (Doc. 13.)

In his objections, Plaintiff indicates that he has complied with the California Government Claims Act with regard to his state law claim of negligence. In the Findings and Recommendations, it was specifically noted that Plaintiff had not pled compliance with the California Government Act, and

therefore Plaintiff's state law claim of negligence could not proceed. (Doc. 12, at 7.) Inasmuch as Plaintiff has now properly pled compliance with the California Government Claims Act, Plaintiff has stated a cognizable state law claim of negligence against Defendant Sherman, and this action may therefore proceed on such claim.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the 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 by proper analysis.

## Accordingly, IT IS HEREBY ORDERED that:

- 1. The Findings and Recommendations, filed on January 4, 2017, are adopted in full as modified herein;
- 2. This action shall proceed on Plaintiff's ADA and negligence claims against Defendant Sherman only;
- 3. All other claims and Defendants are dismissed from the action for failure to state a cognizable claim; and
- 4. The matter is referred back to the assigned magistrate judge for initiation of service of process.

SENIOR DISTRICT JUDGE

IT IS SO ORDERED.

Dated: April 11, 2017

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