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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	MELVIN RAY BRUMMETT, JR.,) Case No.: 1:16-cv-01400-AWI-SAB (PC)
12	Plaintiff,) FINDINGS AND RECOMMENDATIONS RECOMMENDING THIS ACTION PROCEED ON PLAINTIFF'S RETALIATION CLAIMS AGAINST
13	v.	
14	R.A. DEAN, et al.,	 DEFENDANTS DEAN AND RIVERO, SUBJECT TO SEVERANCE, AND DISMISSING ALL
15	Defendants.) OTHER CLAIMS AND DEFENDANTS
16) [ECF Nos. 1, 8, 9]
17	Plaintiff Melvin Ray Brummett, Jr. is appearing pro se and in forma pauperis in this civil rights	
18	action pursuant to 42 U.S.C. § 1983. Plaintiff declined United States Magistrate Judge jurisdiction;	
19	therefore, this matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. §	
20	636(b)(1)(B) and Local Rule 302.	
21	On February 22, 2017, the Court screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915A	
22	and found that it stated two separate and unrelated claims for retaliation against Defendants Dean and	
23	Rivero, in violation of the First Amendment of the United States Constitution. Fed. R. Civ. P. 8(a);	
24	Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555	
25	(2007); Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010). However, the Court found that the	
26	complaint did not state a claim against any of the other named Defendants. The Court ordered	
27	Plaintiff to either file an amended complaint curing the deficiencies identified or notify the Court he is	
28	willing to proceed only on the retaliation clai	ms, subject to severance. On March 9, 2017, Plaintiff

1	filed a notice stating he does not intend to amend and he is willing to proceed only on his retaliation	
2	claims against Defendants Dean and Rivero, subject to severance.	
3	Accordingly, it is HEREBY RECOMMENDED that:	
4	1. The instant action proceed against Defendant Dean for retaliation;	
5	2. Plaintiff's retaliation claim against Defendant Rivero be severed and a new case be	
6	opened; and	
7	3. All other claims and Defendants be dismissed from the action for failure to state a	
8	cognizable claim.	
9	These Findings and Recommendations will be submitted to the United States District Judge	
10	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen (14) days	
11	after being served with these Findings and Recommendations, Plaintiff may file written objections	
12	with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and	
13	Recommendations." Plaintiff is advised that failure to file objections within the specified time may	
14	result in the waiver of rights on appeal. <u>Wilkerson v. Wheeler</u> , 772 F.3d 834, 838-39 (9th Cir. 2014)	
15	(citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).	
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17	IT IS SO ORDERED.	
18	Dated: March 10, 2017	

UNITED STATES MAGISTRATE JUDGE