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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER LIPSEY, JR.,

 Plaintiff,

 v.

RANDOLPH,

 Defendant.

No. 1:17-cv-01706-DAD-SAB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND

(Doc. Nos. 28, 32)

Plaintiff Christopher Lipsey, Jr. is a state prisoner proceeding *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 November 28, 2018, the assigned magistrate judge issued findings and recommendations, recommending that defendant’s motion to dismiss plaintiff’s state law claim under the Bane Act be granted for failure to comply with the California Government Claims Act. (Doc. No. 32.) The findings and recommendations were served on the parties and contained notice that any objections were due within twenty-one days after service. (*Id.* at 8.) On

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1 December 17, 2018, plaintiff filed objections, and defendant filed a response on December 28,
2 2018. (Doc. Nos. 33, 34.)¹

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

7 In his objections, plaintiff makes the following four arguments regarding why this court
8 should decline to adopt the findings and recommendations: (1) the court should exercise its
9 discretion to permit plaintiff to file a late claim; (2) plaintiff's six-month window in which to file
10 a claim did not begin to run until he had exhausted his administrative remedies; (3) plaintiff has
11 substantially complied with the statutory requirements, which is sufficient; and (4) plaintiff's
12 amended claim, filed on September 11, 2018, renders his claim timely. However, as pointed out
13 in defendant's response to plaintiff's objections, the findings and recommendations expressly
14 considered and rejected each of these arguments. The court finds no error in the magistrate
15 judge's analysis.

16 Accordingly,

- 17 1. The finding and recommendations issued on November 28, 2018 (Doc. No. 32) are
18 adopted in full;
- 19 2. Defendant's motion to dismiss plaintiff's California Bane Act claim for failure to
20 comply with the California Government Claims Act (Doc. No. 28) is granted; and
- 21 3. Defendant shall file an answer to the complaint within twenty (20) days from the
22 date of service of this order.

23 IT IS SO ORDERED.

24 Dated: April 4, 2019

25 
26 _____
27 UNITED STATES DISTRICT JUDGE

28 ¹ Subsequently, plaintiff has filed a "request for judicial notice before judgment" (Doc. No. 35),
as well as two additional filings styled as replies. (Doc. Nos. 37, 38.)