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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CURTIS LEE MORRISON,

Plaintiff,

No. CIV S-06-2557 FCD EFB P

vs.

THOMAS CAREY, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 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 General Order No. 262.

On September 24, 2009, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fifteen days from the date the findings and recommendations were served. Plaintiff has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire

1 file, the court finds the findings and recommendations to be supported by the record and by
2 proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed September 24, 2009, are adopted in
5 full;


6 2. Defendants' motion to dismiss is denied to the extent defendants argue
7 plaintiff failed to exhaust, but granted on the ground that plaintiff failed to state a claim upon
8 which relief can be granted;

9 3. Defendant Carey is dismissed from this action without prejudice; and,

10 4. Plaintiff's fraud claim against defendant Ballesteros is dismissed without
11 prejudice.

12 So ordered.

13 DATED: December 14, 2009.

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15 
16 FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE