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

LINDA OSTROFSKY,

Plaintiff,

No. CIV S-07-0987 MCE EFB PS

vs.

DEPARTMENT OF REHABILITATION,
JOHN MARTIN, KELLY COOK, and
DOES 1 through 25, inclusive,

Defendants.

ORDER

On September 17, 2009, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within ten days. No objections were filed.

Accordingly, the court presumes any findings of fact are correct. See Orland v. United States, 602 F.2d 207, 208 (9th Cir. 1999). The magistrate judge's conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983).

The court has reviewed the applicable legal standards and, good cause appearing, concludes that it is appropriate to adopt the proposed Findings and Recommendations in full.

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1 Accordingly, IT IS ORDERED that:

2 1. The proposed Findings and Recommendations filed September 17, 2009, are
3 ADOPTED;


4 2. Defendants' motion to dismiss plaintiff's Third Amended Complaint, Dckt.
5 No. 24, is granted in part and denied in part;

6 3. Plaintiff's claims pursuant to Title VII and FEHA are dismissed without leave
7 to amend;

8 4. Plaintiff's claims pursuant to the Rehabilitation Act and the Americans With
9 Disabilities Act are dismissed with leave to amend; and

10 5. Plaintiff is granted leave to file, within 60 days of the filing date of any order
11 adopting this recommendation, a Fourth Amended Complaint setting forth claims for
12 discrimination, hostile work environment, and retaliation pursuant to the Rehabilitation Act and
13 the Americans With Disabilities Act.

14 Dated: October 28, 2009

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17 MORRISON C. ENGLAND, JR.
18 UNITED STATES DISTRICT JUDGE
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