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

MYRNA HUBBARD,

Plaintiff,

No. CIV S-07-2586 LKK KJM PS

vs.

OPRAH WINFREY,

Defendant.

ORDER

\_\_\_\_\_ /

Plaintiff, proceeding pro se, filed the above-entitled actions. The matter was referred to a United States Magistrate Judge pursuant to Local Rule 72-302(c)(21).

On October 23, 2008, the magistrate judge filed findings and recommendations herein which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within twenty days. Plaintiff has not filed objections to the findings and recommendations.


The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis, subject to one exception. The magistrate cites Hinshon v. King & Spalding, 467 U.S. 69, 73 (1984) and Conley v. Gibson, 355 U.S. 41, 45-46 (1957) for the statement that a complaint should only be dismissed for failure to state a claim upon which relief may be granted "if it appears beyond doubt that plaintiff can

1 prove no set of facts in support of the claim or claims that would entitle him to relief.”  
2 Magistrate’s Findings and Recommendations of October 23, 2008 at 2. The Supreme Court  
3 repudiated this standard in Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007). However, the  
4 Twombly standard raises the bar for plaintiffs, and this court agrees that plaintiff failed to clear  
5 even the lower, "no set of facts" bar.. Accordingly, IT IS HEREBY ORDERED that:

6           1. Subject to the clarification noted above, the findings and recommendations  
7 filed October 23, 2008, are adopted in full; and

8           2. This action is dismissed.

9 DATED: February 10, 2009.

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13 LAWRENCE K. KARLTON  
14 SENIOR JUDGE  
15 UNITED STATES DISTRICT COURT  
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