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

TELICIA BENSON,

Plaintiff,

No. 2:08-cv-0886 JFM

vs.

CALIFORNIA CORRECTIONAL
PEACE OFFICERS ASSOCIATION,
DEBBIE ROLLINS, JEFF
NICOLAYSEN, MARY BURTON,

Defendants.

ORDER

On January 13, 2009, counsel for defendants inquired as to the status of the court's jurisdiction in light of the parties' consent to the jurisdiction of the undersigned. See 28 U.S.C. § 636(c). A review of the docket reflects plaintiff filed her consent on November 5, 2008; defendants filed their consent on November 17, 2008. This action should have been reassigned to the undersigned shortly thereafter. Good cause appearing, the above-captioned case shall be reassigned and referred to the undersigned for all further proceedings and entry of final judgment. Said assignment shall be entered nunc pro tunc, effective November 18, 2008.

In light of this reassignment, the findings and recommendations issued December 19, 2008 are amended as follows:

1 A. The title is amended to read "Order."

2 B. Page three (lines 24-26) and page four are amended to read as follows:

3 In accordance with the above, IT IS HEREBY ORDERED that:

4 1. Defendants' November 17, 2008 motion to dismiss (#15) is partially granted;

5 2. Plaintiff's claim for relief pursuant to Title V of the American
6 with Disabilities Act is dismissed as to all defendants because
7 plaintiff failed to first exhaust her administrative remedies.

8 3. Plaintiff's claim for relief pursuant to Title VII of the Civil
9 Rights Act is dismissed as to all defendants because plaintiff failed
10 to first exhaust her administrative remedies.

11 4. Plaintiff's claim for relief pursuant to Title I of the Americans
12 with Disabilities Act is dismissed as to defendants Debbie Rollins,
13 Jeff Nicolaysen and Mary Burton because the complaint fails to
14 state a claim for relief as to those defendants.

15 5. Plaintiff's claim for relief for violation of the Equal Pay Act is
16 dismissed as to defendants Debbie Rollins, Jeff Nicolaysen and
17 Mary Burton because the complaint fails to state a claim for relief as
18 to those defendants.

19 6. Plaintiff is granted thirty days in which to file an amended
20 complaint alleging that defendant CCPOA failed to accommodate
21 plaintiff's disability (stress) in violation of Title I of the Americans
22 with Disabilities Act, and that defendant CCPOA violated the Equal
23 Pay Act.

24 The remainder of the December 19, 2008 filing stands as written.

25 Plaintiff timely filed her amended complaint on January 20, 2009. Defendants
26 shall file their responsive pleading within twenty days from the date of this order.

In accordance with the above, IT IS HEREBY ORDERED that:

1. The Clerk of the Court shall reassign this case to the undersigned nunc pro tunc,
effective November 18, 2008. Henceforth, the caption on documents filed in the reassigned case
shall be shown as No. 2:08-cv-0886 JFM PS.

2. The findings and recommendations filed December 19, 2008 are amended as set
forth above.

3. Plaintiff's January 20, 2009 amended complaint is timely filed.

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4. Defendants shall file their responsive pleading within twenty days from the date of this order.

DATED: January 26, 2009.


UNITED STATES MAGISTRATE JUDGE

/001; benson.amd