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

WILLIAM BARKER,

Plaintiff,

No. CIV S-08-1160 WBS CKD P

vs.

SUSAN L. HUBBARD, et al.,

Defendants.

ORDER

_____/

Plaintiff, a California 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 November 1, 2011, 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 twenty-one days. 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 file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed November 1, 2011, are adopted in full;
2. Defendants' motion to dismiss (Docket No. 91) is granted;
3. Plaintiff's claims arising under California law – claims three and four in his second amended complaint – are dismissed without prejudice; and
4. Plaintiff is given 14 days from the date of this order to file a third amended complaint consistent with this order. If plaintiff elects not to file another amended complaint, the action shall proceed on the remaining claims.

DATED: December 22, 2011



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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