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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

MICHAEL FAUSETT, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 NURSE LeBLANC, et al., )  
 )  
 Defendants. )

2:08-CV-1724-RLH (VPC)

**REPORT AND RECOMMENDATION  
OF U.S. MAGISTRATE JUDGE**

This report and recommendation is made to the Honorable Roger L. Hunt, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR 302.

On January 27, 2010, the court granted plaintiff’s motion for a sixty-day extension of time to locate and serve a defendant, Nurse Cooper (#25). Nurse Cooper was duly served, and plaintiff then propounded written discovery on Nurse Cooper. At the August 26, 2010 case management conference, plaintiff requested that he be allowed to propound additional written depositions on Nurse Cooper; however, defendants’ counsel reported to the court that the employment records revealed that Nurse Cooper was not working at the medical facility during the period of time giving rise to plaintiff’s allegations in the complaint. Nurse Cooper also verified her answers to interrogatories and stated that she was not employed at the medical facility at issue in this case during the time period alleged in plaintiff’s complaint.

Based on the foregoing, the undersigned Magistrate Judge recommends that Nurse Cooper dismissed as a defendant in this action.

The parties should be aware of the following:

- 1. They may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 304(b) of the Local Rules of Practice, specific written objections to this Report and Recommendation within fourteen (14) days

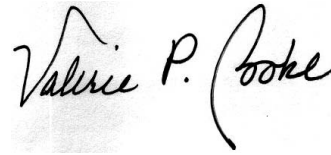
1 of receipt. These objections should be titled "Objections to Magistrate Judge's Report and  
2 Recommendation" and should be accompanied by points and authorities for consideration by the District  
3 Court.

4 2. This Report and Recommendation is not an appealable order, and any notice of appeal  
5 pursuant to Rule 4(a)(1), Fed. R. App. P., should not be filed until entry of the District Court's judgment.

6 **RECOMMENDATION**

7 For the reasons stated above, the undersigned Magistrate Judge recommends that the District  
8 Judge enter an Order **DISMISSING** Nurse Cooper as a defendant in this action.

9 DATED: September 27, 2010.

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11 \_\_\_\_\_  
12 UNITED STATES MAGISTRATE JUDGE