

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

BRENT ALLEN WINTERS, et al.,

Plaintiff,

No. CIV-S-09-0522-JAM-KJN-PS

vs.

DELORES JORDAN, et al.,

ORDER

Defendants.

_____/

On July 27, 2010, 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 fourteen days. (Dkt. No. 147.) On August 24, 2010, plaintiffs filed untimely objections to the magistrate judge’s findings and recommendations. (Dkt. No. 165.) Despite the untimely nature of plaintiffs’ objections, the undersigned has considered those objections out of an abundance of caution.

This court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As to any portion of the proposed findings of fact to which no objection has been made, the court assumes its correctness and decides the motions on the applicable law. See Orand v. United

1 States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
2 reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir.
3 1983).

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

6 Accordingly, IT IS ORDERED that:

7 1. The Proposed Findings and Recommendations filed July 27, 2010 (Dkt. No. 147), are
8 ADOPTED;

9 2. Defendant Virginia Armstrong's motion to dismiss the Third Amended Complaint
10 (Dkt. No. 84) is granted in part;

11 3. The civil battery claim alleged on Joy Winters's behalf is dismissed without prejudice;
12 and

13 4. All the remaining claims alleged against Virginia Armstrong, except for plaintiff
14 Christy Winters's civil battery claim (claim 9) and plaintiffs' breach of contract claim (claim 22),
15 are dismissed with prejudice.

16 DATED: September 13, 2010

17
18 /s/ John A. Mendez
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26