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

BRENT ALLAN WINTERS, et al.,

Plaintiffs,

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

vs.

DELORES JORDAN, et al.,

Defendants.

ORDER

On February 2, 2012, 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. 311). Although no party filed timely objections to the findings and recommendations, plaintiffs filed untimely objections to those findings and recommendations on March 2, 2012 (Dkt. No. 319). Despite the untimely nature of plaintiffs' objections, the court 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 an 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); see also Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009). As to any portion of the proposed

1 findings of fact to which no objection has been made, the court assumes its correctness and
2 decides the motions on the applicable law. See Orand v. United States, 602 F.2d 207, 208 (9th
3 Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. See Britt v. Simi
4 Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983).

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

7 Accordingly, IT IS ORDERED that:

8 1. The Proposed Findings and Recommendations filed February 2, 2012, are ADOPTED.

9 2. Defendant Delores Jordan's motion to dismiss (Dkt. No. 257) is granted in part and
10 denied in part. Specifically, the following claims shall proceed:

11 a. Plaintiffs' seventh claim for relief (violation of rights of Equal Protection),
12 only to the extent that it is alleged by plaintiff Susan Winters against defendant Delores Jordan;

13 b. Plaintiffs' ninth claim for relief (civil battery), only to the extent that it is
14 alleged by plaintiffs Susan, Cacey, Christy, and Jennifer Winters against defendant Delores
15 Jordan;

16 c. Plaintiffs' tenth claim for relief (civil assault), only to the extent that it is
17 alleged by plaintiffs Susan, Cacey, Christy, and Jennifer Winters against defendant Delores
18 Jordan;

19 d. Plaintiffs' twelfth claim for relief (trespass); and

20 e. Plaintiffs' twenty-fifth claim for relief (invasion of privacy), only to the
21 extent that it concerns alleged intrusions on May 26, 2008, and June 2, 2008.

22 Plaintiffs' remaining claims alleged against Jordan are dismissed with prejudice in all
23 other respects.

24 3. Defendant David Silber's motion to dismiss (Dkt. No. 258) is granted. All of
25 plaintiffs' claims alleged against Silber are dismissed with prejudice, and Silber is dismissed
26 from this action.

1 4. Plaintiffs' motion for default judgment (Dkt. No. 189) is denied as to defendant
2 Delores Jordan.

3 DATED: March 9, 2012

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/s/ John A. Mendez
UNITED STATES DISTRICT COURT JUDGE