



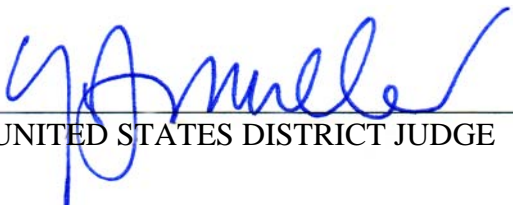
1 proper analysis, with one exception. The findings and recommendations recommend that this  
2 action be closed. However, after issuing the findings and recommendations, the magistrate judge  
3 granted plaintiff's request to attempt to re-serve defendant David. As such, it is not appropriate  
4 to close this case at this time. Instead, judgment will be entered as to the moving defendants,  
5 and this action will continue as to defendant David only.

6 The court notes that in his objections, plaintiff claims that this action was filed  
7 under 42 U.S.C. § 1983 and 42 U.S.C. § 12102, the Americans With Disabilities Act, and that  
8 his complaint shows, among other things, that defendants were "uncaring as to his medical needs  
9 for an accommodation under the American's [sic] with Disabilities Act. ECF No. 45 at 2.  
10 Plaintiff did attach a copy of a request for a modification or accommodation under the ADA as  
11 an exhibit, but did not refer to the ADA in the body of the complaint. Compare ECF No. 1 at  
12 17 (ADA request) and *id.* at 1 ("this is an action brought pursuant to 42 U.S.C. §1983"; "this is a  
13 claim for named damages and injunctive relief brought under 42 U.S.C. § 1983"). In addition,  
14 in his screening order, the magistrate judge found only that the complaint appeared to state a  
15 cognizable claim under 42 U.S.C. § 1983. ECF No. 7 at 2. This court thus declines to consider  
16 any ADA claims plaintiff is attempting to raise in his objections. *Jones v. Blanas*, 393 F.3d 918,  
17 935 (9th Cir. 2004).

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The findings and recommendations filed February 11, 2011, are adopted;
- 20 2. Defendants' motion for summary judgment (Doc. 27) is granted;
- 21 3. Plaintiff's motion for summary judgment (Doc. 33) is denied;
- 22 4. Judgment shall be entered in favor of the moving defendants; and
- 23 5. This action shall proceed as to defendant David only.

24 DATED: August 13, 2011.

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26 UNITED STATES DISTRICT JUDGE