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

GREGORY NORWOOD,

Plaintiff,

No. CIV S-09-2929 LKK GGH P

vs.

NANGANAMA, et al.,

Defendants.

ORDER &
FINDINGS AND RECOMMENDATIONS

Plaintiff is a prisoner who is proceeding pro se and in forma pauperis. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. This case continues against defendants Dr. Ramen and Byers. Plaintiff alleges that defendants provided inadequate medical care concerning plaintiff's skin condition and body bugs.

On January 11, 2011, the court granted Dr. Ramen's motion to dismiss as plaintiff failed to state a claim pursuant to Rule 12(b)(6), however plaintiff was provided a final opportunity to file an amended complaint for the specific purpose of providing additional information concerning Dr. Ramen.¹ Plaintiff has filed an amended complaint. Doc. 55. However, the amended complaint contains no new facts concerning Dr. Ramen, and does not even name Dr. Ramen. Plaintiff was specifically instructed in the November 18, 2010, findings

¹ After service difficulties, defendant Byers answered the complaint on February 7, 2011.

1 and recommendations and in the April 14, 2011, order, that the amended complaint should be
2 filed with respect to Dr. Ramen. As plaintiff has failed to even name this defendant, Dr. Ramen
3 should be dismissed from this action.

4 The amended complaint contains the same general facts and claims regarding
5 defendant Byers with some new allegations. Therefore, the amended complaint filed on May 2,
6 2011, will be the operative complaint in this case. While defendant Byers has already answered
7 the complaint, he may file an amended answer, within 14 days, or stand on the current answer.²

8 Accordingly, IT IS HEREBY ORDERED that the amended complaint filed on
9 May 2, 2011, is the operative complaint in this case. Defendant Byers may stand on his existing
10 answer or file an amended answer within 14 days.

11 IT IS HEREBY RECOMMENDED that defendant Dr. Ramen be dismissed from
12 this action.

13 These findings and recommendations are submitted to the United States District
14 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
15 days after being served with these findings and recommendations, any party may file written
16 objections with the court and serve a copy on all parties. Such a document should be captioned
17 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
18 shall be served and filed within fourteen days after service of the objections. The parties are
19 advised that failure to file objections within the specified time may waive the right to appeal the
20 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: May 9, 2011

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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23 GGH: AB norw2929.dis

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² A discovery and scheduling order will be issued once it is determined if defendant Byers will file an amended answer or stand on the existing answer.