1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 JOHN CLINT DRAPER, No. 2:10-cv-32-KJM-EFB P 12 Plaintiff, 13 v. **ORDER** 14 D. ROSARIO, 15 Defendant. 16 17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief 18 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided 19 by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On July 30, 2013, the magistrate judge filed findings and recommendations, which were 21 served on all parties and which contained notice to all parties that any objections to the findings 22 and recommendations were to be filed within fourteen days. Neither party has filed objections to 23 the findings and recommendations. 24 The court presumes that any findings of fact are correct. See Orand v. United States, 602 25 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. 26 See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983). Having carefully 27 reviewed the file, the court finds the findings and recommendations to be supported by the record 28 and by the proper analysis. 1

1 The court also finds appointment of counsel is warranted. Judson Earle Lobdell has been 2 selected from the court's pro bono attorney panel to represent plaintiff and has accepted the 3 appointment. 4 Plaintiff's Motion for Settlement Conference (ECF 95) also is pending. The court 5 GRANTS this motion. 6 Accordingly, IT IS HEREBY ORDERED that: 7 1. The findings and recommendations filed July 30, 2013, are adopted in full. 2. 8 Defendant Rosario's December 28, 2012 motion for summary judgment (ECF No. 9 77) is denied. 3. 10 Judson Earle Lobdell is appointed as counsel in the above entitled matter. 11 Appointed counsel shall notify Sujean Park at (916) 930-4278, or via email at 12 spark@caed.uscourts.gov if he has any questions related to the appointment. 13 4. A settlement conference is set for December 12, 2013 at 10:00 a.m. in Courtroom 14 No. 27, 8th Floor, before Magistrate Judge Dale A. Drozd, who has been randomly selected. 15 The parties are directed to submit their confidential settlement conference statements to 16 the Court using the following email address: dadorders@caed.uscourts.gov. If a party desires to 17 share additional confidential information with the Court, they may do so pursuant to the 18 provisions of Local Rule 270(d) and (e). Statements are due at least 7 days prior to the Settlement 19 Conference. Each party is reminded of the requirement that it be represented in person at the 20 settlement conference by a person able to dispose of the case or fully authorized to settle the 21 matter at the settlement conference on any terms. See Local Rule 270. 22 5. The final pretrial conference is set for February 6, 2014; the parties shall file a 23 joint pretrial statement by January 23, 2014. 24 ///// 25 ///// 26 ///// 27 /////

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1	6. The Clerk of the Court is directed to serve a copy of this order upon Judson Earle
2	Lobdell, Morrison & Foerster LLP, 425 Market Street, San Francisco, CA 94105.
3	DATED: September 23, 2013.
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5	MA Mulla
6	UNITED STATES DISTRICT JUDGE
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