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

DANIEL THOMAS HARVEY,

Plaintiff,

No. CIV S-10-1653 GEB EFB PS

vs.

CITY OF SOUTH LAKE TAHOE;
EL DORADO COUNTY; ANDREW
EISSINGER; CHARLES DUKE,

Defendants.

ORDER

_____ /
This action, in which plaintiff is proceeding pro se, is before the undersigned in accordance with 28 U.S.C. § 636(b)(1) and Eastern District of California Local Rule 302(c)(21). On April 12, 2012, the undersigned issued findings and recommendations which recommended that plaintiff’s second amended complaint be dismissed and that plaintiff be given leave to amend some of his claims. Dckt. No. 50. The findings and recommendations provided that plaintiff should be given thirty days from the date of any order adopting the findings and recommendations within which to file a third amended complaint. *Id.* at 17.

On May 11, 2012, plaintiff filed a third amended complaint. Dckt. No. 53. However, the assigned district judge has not yet issued an order adopting or declining to adopt the April 12, 2012 findings and recommendations. Therefore, plaintiff’s second amended complaint has not

1 yet been dismissed and plaintiff's third amended complaint is premature. Accordingly,
2 plaintiff's third amended complaint, Dckt. No. 53, is stricken. If the April 12 findings and
3 recommendations are adopted, plaintiff may re-file his third amended complaint within thirty
4 days from the date of the order adopting the findings and recommendations.

5 SO ORDERED.

6 DATED: May 16, 2012.

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EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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