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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PETER GRAVES,

No. 2:10-cv-03156-MCE-KJN PS

Plaintiff,

v.

ORDER

HILLARY RANDOM [sic]
CLINTON and JAMES STEINBERG,

Defendants.

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On August 31, 2011, Plaintiff filed a "Motion for New Hearing" (ECF No. 68) to challenge the Magistrate Judge's Order in this matter dated August 29, 2011 (ECF No. 67). The Court will construe Plaintiff's motion as a request for reconsideration of the Magistrate Judge's order under Eastern District Local Rule 303(d).

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1 In reviewing a magistrate judge's determination, the
2 assigned judge shall apply the "clearly erroneous or contrary to
3 law" standard of review set forth in Local Rule 303(f), as
4 specifically authorized by Federal Rule of Civil Procedure 72(a)
5 and 28 U.S.C. § 636(b)(1)(A).¹ Under this standard, the Court
6 must accept the Magistrate Judge's decision unless it has a
7 "definite and firm conviction that a mistake has been committed."
8 Concrete Pipe & Products of Calif., Inc. v. Construction Laborers
9 Pension Trust for So. Calif., 508 U.S. 602, 622 (1993). If the
10 Court believes the conclusions reached by the Magistrate Judge
11 were at least plausible, after considering the record in its
12 entirety, the Court will not reverse even if convinced that it
13 would have weighed the evidence differently. Phoenix Eng. &
14 Supply Inc. v. Universal Elec. Co., Inc., 104 F.3d 1137, 1141
15 (9th Cir. 1997).

16 Having read and considered the Magistrate Judge's ruling, as
17 well as Plaintiff's request for reconsideration, this Court does
18 not find the ruling to be clearly erroneous as that standard has
19 been defined above. To the contrary, the Magistrate Judge
20 rulings were proper and defined appropriate parameters for
21 adjudicating this matter.

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26 ¹ Federal Rule of Civil Procedure 72(a) directs the district
27 court judge to "modify or set aside any portion of the magistrate
28 judge's order found to be clearly erroneous or contrary to law."
Similarly, 28 U.S.C. § 636(b)(1)(A), the district judge may
reconsider any pretrial order "where it is shown that the
magistrate's order is clearly erroneous or contrary to law."

1 Plaintiff's Motion (ECF No. 68) is accordingly DENIED. All
2 provisions of the Magistrate Judge's Order (ECF No. 67) remain in
3 effect, including but not limited to the guidelines imposed for
4 opposing (not later than September 15, 2011) Defendants' Motion
5 to Dismiss and/or Motion for Summary Judgment (ECF No. 59)
6 presently set for hearing on September 29, 2011.

7 IT IS SO ORDERED.

8 Dated: September 8, 2011

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12 MORRISON C. ENGLAND, JR.
13 UNITED STATES DISTRICT JUDGE
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