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

BART LYONS,

Plaintiff,

No. 2:11-cv-0268 GEB KJN P

vs.

FOLSOM MERCY HOSPITAL, et al.,

ORDER and

Defendants.

FINDINGS AND RECOMMENDATIONS

_____ /

Pursuant to this court’s screening of plaintiff’s Amended Complaint as required by 28 U.S.C. § 1915A(a), the court found that the Amended Complaint states potentially cognizable claims against defendants Browning, Lang and Lewis, but did not state a claim against defendants Folsom Police Department and Folsom Mercy Hospital. (Dkt. No. 14.) The court gave plaintiff the option of proceeding on his Amended Complaint, or filing a further amended complaint that again attempted to state cognizable claim against defendants Folsom Police Department and Folsom Mercy Hospital. Plaintiff chose to proceed on his Amended Complaint against defendants Browning, Lang and Lewis, effectively choosing to terminate this action against defendants Folsom Police Department and Folsom Mercy Hospital. This court therefore recommends that defendants Folsom Police Department and Folsom Mercy Hospital be dismissed from this action.


1 One additional matter requires the court's attention. In a motion filed September
2 16, 2011, plaintiff seeks to expedite the discovery process (he seeks a copy of the video/audio
3 tape which plaintiff alleges was illegally recorded by defendants, and seeks a list of the other
4 individuals or entities who have copies of the tape), and, further, suggests that this case be
5 referred to mediation. (Dkt. No. 21.) Both matters are prematurely requested. Defendants have
6 not yet been served process in this action, and hence have not responded to the Amended
7 Complaint; nor have the parties commenced the discovery process in this action.

8 Accordingly, for the foregoing reasons, IT IS HEREBY ORDERED that
9 plaintiff's motion filed September 16, 2011 (Dkt. No. 21) is denied.

10 Additionally, IT IS HEREBY RECOMMENDED that defendants Folsom Police
11 Department and Folsom Mercy Hospital be dismissed from this action.

12 These findings and recommendations are submitted to the United States District
13 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 21 days
14 after being served with these findings and recommendations, plaintiff may file written objections
15 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
16 and Recommendations." Plaintiff is advised that failure to file objections within the specified
17 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
18 (9th Cir. 1991).

19 DATED: September 21, 2011

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22 KENDALL J. NEWMAN
23 UNITED STATES MAGISTRATE JUDGE

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