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

ELROY PAYNE,

Plaintiff,

No. 2:11-cv-2262-GEB-EFB PS

vs.

MONO COUNTY; MONO COUNTY
BOARD OF SUPERVISORS; MONO
COUNTY PLANNING COMMISSION,

Defendants.

ORDER

_____ /

On September 13, 2012, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff filed objections on September 28, 2012, defendants filed a response thereto on October 15, 2012, and they were considered by the undersigned.

This court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As to any portion of the proposed findings of fact to which no objection has been made, the court assumes its correctness and decides the motions on the applicable law. See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

1 The court has reviewed the applicable legal standards and, good cause appearing,
2 concludes that it is appropriate to adopt the proposed Findings and Recommendations in full.

3 Accordingly, IT IS ORDERED that:

4 1. The proposed Findings and Recommendations filed September 13, 2012, are
5 ADOPTED;

6 2. The motion to dismiss filed by defendants Mono County Board of Supervisors
7 and Mono County Planning Commission, Dckt. No. 13, is granted;

8 3. Plaintiff's claims against those defendants are dismissed;

9 4. Plaintiff is denied leave to amend his claims against the moving defendants,
10 except plaintiff's due process claims based on the alleged "secret meeting," if plaintiff can cure
11 the deficiencies regarding that claim;

12 5. Defendant Mono County is dismissed for failure to effect service of process
13 within the time prescribed by Rule 4(m) and for failure to respond to the magistrate judge's
14 September 13, 2012 order to show cause regarding service on that defendant; and

15 6. Plaintiff is granted thirty days from the date of this order to file a second
16 amended complaint as provided in the September 13, 2012 Findings and Recommendations. The
17 second amended complaint must bear the docket number assigned to this case and must be
18 labeled "Second Amended Complaint." Failure to timely file a second amended complaint in
19 accordance with this order will result in a recommendation by the magistrate judge that this
20 action be dismissed with prejudice.

21 Dated: November 6, 2012

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25 GARLAND E. BURRELL, JR.
26 Senior United States District Judge