

1 First, given that all named parties did not consent to proceed before the magistrate judge,
2 the May 20, 2014 order and judgment are void and plaintiff's motion for relief from judgment
3 should be granted. See Fed. R. Civ. P. 60(b)(4).

4 Second, and upon reconsideration, plaintiff's application to proceed in forma pauperis
5 should be granted because plaintiff made plausible allegations that he was "under imminent
6 danger of serious physical injury" at the time he lodged his complaint, including that the denial of
7 accommodations for his various medical conditions and disabilities subjected him to "daily
8 increased pain in his feet, back, and shoulders." ECF No. 1 at 22; 28 U.S.C. § 1915(g); see also
9 *Andrews v. Cervantes*, 493 F.3d 1047, 1055 (9th Cir. 2007) (an exception to the three-strikes rule
10 exists "if the complaint makes a plausible allegation that the prisoner faced 'imminent danger of
11 serious physical injury' at the time of filing").

12 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly
13 assign a United States District Judge to this action.

14 Further, IT IS HEREBY RECOMMENDED that:

- 15 1. Plaintiff's motion for relief from judgment (ECF No. 15) be granted and the May 20,
16 2014 order (ECF No. 6) and judgment (ECF No. 7) be vacated and the Clerk directed
17 to reopen the case.
- 18 2. Plaintiff's motion to proceed in forma pauperis (ECF No. 3) be granted.

19 These findings and recommendations are submitted to the United States District Judge
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
21 after being served with these findings and recommendations, any party may file written
22 objections with the court and serve a copy on all parties. Such a document should be captioned
23 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
24 objections shall be served and filed within fourteen days after service of the objections. The
25 parties are advised that failure to file objections within the specified time may waive the right to

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appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

Dated: March 14, 2018.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE