

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER D. SCHNEIDER,
Plaintiff,
v.
SUTTER AMADOR HOSPITAL, ET AL.,
Defendants.

No. 2:14-cv-00804-GEB-AC PS

ORDER & FINDINGS AND
RECOMMENDATIONS

This action was referred to the undersigned pursuant to Local Rule 302(c)(21). On October 23, 2014, defendant Amador County Department of Public Health (“Amador County”) filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 65. No opposition to the motion to dismiss was filed and the court issued an order on December 2, 2014 directing plaintiff to file an opposition no later than December 31, 2014. ECF No. 71. A hearing on Amador County’s motion to dismiss is currently scheduled for January 14, 2015. Id.

On November 20, 2014, plaintiff’s claims against defendants Sutter Amador Hospital, Dr. Popke, Sutter Health, the Department of Motor Vehicles, the State of California and Dr. Buss were dismissed. ECF No. 68. As a result, the remaining defendants in this action are Amador County, the California Department of Public Health and Amador Emergency Physicians Medical Group (“the remaining defendants”).

On December 20, 2014, plaintiff filed two notices of voluntary dismissal. ECF Nos. 72–

1 73. Plaintiff moves to dismiss the remaining defendants under Rule 41(a)(1)(A)(i) of the Federal
2 Rules of Civil Procedure. ECF Nos. 72–73. Rule 41(a) provides, in part, that a plaintiff may
3 voluntarily dismiss an action without a court order by filing “a notice of dismissal before the
4 opposing party serves either an answer or a motion for summary judgment.” Fed. R. Civ. P.
5 41(a)(1)(A)(i). Here, the remaining defendants have not filed an answer or a motion for summary
6 judgment.¹ Accordingly, the court finds that plaintiff’s notices of voluntary dismissal are proper
7 and will recommend dismissing the remaining defendants.

8 In light of plaintiff’s voluntary dismissal of the remaining defendants, the court vacates
9 Amador County’s motion to dismiss and the January 14, 2015 hearing on the matter. See ECF
10 Nos. 65, 71.

11 For these reasons, IT IS HEREBY ORDERED that defendant Amador County’s motion to
12 dismiss, ECF No. 65, and the January 14, 2015 hearing date are vacated;

13 Furthermore, IT IS HEREBY RECOMMENDED that:

14 1. Plaintiff’s Rule 41 notices of voluntary dismissal of defendants Amador County, the
15 California Department of Public Health and Amador Emergency Physicians Medical Group, ECF
16 Nos. 72–73, be granted; and

17 2. This action be closed.

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

24 ///

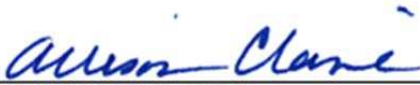
25 ///

26 ///

27 ¹ The court notes that Amador County has filed a motion to dismiss, ECF No. 65, and defendants
28 the California Department of Public Health and Amador Emergency Physicians Medical Group
have not appeared.

1 advised that failure to file objections within the specified time may waive the right to appeal the
2 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 DATED: December 22, 2014

4 
5 ALLISON CLAIRE
6 UNITED STATES MAGISTRATE JUDGE
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28