

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  
EASTERN DISTRICT OF CALIFORNIA

KEVIN MOORE,  
  
Plaintiff,  
  
v.  
  
PRICE, et al.,  
  
Defendants.

No. 2:14-cv-01232-TLN-DB

**ORDER**

This matter is before the Court on remand from the United States Court of Appeals for the Ninth Circuit. (ECF No. 89.) On February 27, 2023, the Ninth Circuit issued an order concluding that the magistrate judge’s March 30, 2022 order denying Plaintiff’s motion to recall the settlement agreement exceeded the limits of the magistrate judge’s authority absent consent under 28 U.S.C. § 636(c). (*Id.*) The Ninth Circuit therefore remanded this case to this Court with instructions to vacate the magistrate judge’s March 30, 2022 order and conduct further proceedings on Plaintiff’s motion to recall the settlement agreement. (*Id.*) The Ninth Circuit also indicated this Court may elect to treat the magistrate judge’s March 30, 2022 order as a report and recommendation and consider Plaintiff’s objections filed on April 29, 2022. (*Id.*) The Ninth Circuit issued its mandate on March 21, 2023.

Pursuant to the Ninth’s Circuit’s remand order, the Court construes the magistrate judge’s March 30, 2022 order as a report and recommendation. In accordance with the provisions of 28

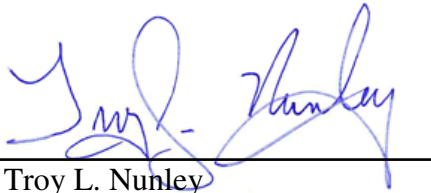
1 U.S.C. § 636(b)(1)(C) and the Court’s Local Rules, this Court has conducted a de novo review of  
2 this case. Having carefully reviewed the entire file, including Plaintiff’s objections filed April 29,  
3 2022, the Court finds the findings and recommendations to be supported by the record and by  
4 proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The magistrate judge’s March 30, 2022, order (ECF No. 81) is VACATED and is  
7 instead construed as findings and recommendations;
- 8 2. The findings and recommendations (ECF No. 81) are ADOPTED IN FULL;
- 9 3. Plaintiff’s motion to recall the settlement agreement (ECF No. 77) is DENIED; and
- 10 4. Plaintiff’s request for transcripts (ECF No. 88) is DENIED as moot.

11 **Dated: March 27, 2023**

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



---

Troy L. Nunley  
United States District Judge