1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 SHARON E. VIRAMONTES, et al., No. 2:15-cv-1754 TLN AC (PS) 12 Plaintiffs. 13 v. **ORDER** 14 PFIZER, INC., 15 Defendant. 16 17 The defendant has timely filed Objections (ECF No. 20) to the undersigned's September 29, 2015 Findings and Recommendations (ECF No. 19). Plaintiff has not filed a response to 18 19 defendant's Objections. However, because defendant has raised a substantial question regarding 20 the Findings and Recommendations, plaintiff will be ordered to file a response. 21 Specifically, defendant now directs the court's attention – for the first time – to the "proof 22 of service" attached to plaintiff's Exhibit B of her own Request for Judicial Notice (ECF No. 13 23 at 42). That document appears to show that plaintiff was served with the November 21, 2012 24 report by Dr. Ira Fishman, more than two years before July 17, 2015, when plaintiff filed the current action in state court. 25 26 Dr. Fishman's report states, among other things: 27 Certainly, there is no medical certainty here but the facts are sufficient, buttressed by the medical literature, to conclude with 28 applicant's reasonable medical probability that the 1

1	dermatomyositis was linked to chronic industrial use of Celebrex.
2	ECF No. 13 at 28 (emphasis added). This would appear to contradict plaintiff's allegation that
3	she first became aware of the possible connection between her dermatomyositis and her ingestion
4	of Celebrex no sooner than several months later, on July 18, 2013. Indeed, plaintiff alleges that
5	the statute of limitations began to run when she first became aware of the connection on July 18,
6	2013, based upon a report of that date by the same Dr. Fishman, making a nearly identical
7	statement:
8	"With regard to Ms. Viramontes specific case, the clinical evidence
9	is detailed and compelling and the facts are sufficient, buttressed by the medical literature, to conclude with reasonable
10	medical probability that the applicant's Dermatomyositis was linked to chronic industrial use of Celebrex."
11	Complaint (ECF No. 1-1) (emphasis added) at p. 10:17-23 (quoting Dr. Fishman's report).
12	Therefore, IT IS HEREBY ORDERED that plaintiff file a response to defendant's
13	Objections (ECF No. 20), no later than November 24, 2015. Failure to comply with this order
14	may result in a recommendation that this action be dismissed with prejudice based upon the
15	statute of limitations.
16	DATED: November 9, 2015
17	MATED: November 9, 2015 MUSS Clark ALLISON CLAIRE
18	UNITED STATES MAGISTRATE JUDGE
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