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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LYNN GAVIN & THOMAS ADEYEMI,
Plaintiffs,
v.
UNIVERSITY OF CALIFORNIA, et
al.,
Defendants.

No. 2:16-cv-2816-JAM-KJN PS

ORDER

On December 2, 2016, the magistrate judge filed findings and recommendations (ECF No. 6), which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen (14) days. On December 16, 2016, and December 21, 2016, plaintiffs filed objections to the findings and recommendations (ECF Nos. 7, 8), which have been considered by the court.

This court reviews de novo those portions of the proposed findings of fact to which an 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); see also Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009). 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 matter on the applicable law. See Orand v. United States, 602 F.2d 207,

1 208 (9th Cir. 1979). The magistrate judge's conclusions of law
2 are reviewed de novo. See Britt v. Simi Valley Unified School
3 Dist., 708 F.2d 452, 454 (9th Cir. 1983).

4 The court has reviewed the applicable legal standards and,
5 good cause appearing, concludes that it is appropriate to adopt
6 the findings and recommendations in part. The findings and
7 recommendations are amended to clarify that Plaintiffs' claims
8 concerning the denial of the move out extension are barred by res
9 judicata rather than duplicative litigation. See Headwaters Inc.
10 v. U.S. Forest Service, 399 F.3d 1047, 1054 (9th Cir. 2005) ("As
11 a general matter, a court may, *sua sponte*, dismiss a case on
12 preclusion grounds where the records of that court show that a
13 previous action covering the same subject matter and parties had
14 been dismissed.") (citation and quotation marks omitted). The
15 Court declines to exercise supplemental jurisdiction over
16 Plaintiffs' state law claims, which are not part of the same case
17 or controversy as Plaintiffs' remaining federal claims. Insofar
18 as Plaintiffs' complaint raises ADA claims unrelated to the
19 denial of extension, see Compl. at ¶¶ 93-94, 114-144, 152-157
20 (concerning inaccessible thermostat, disabled parking, swimming
21 pool facilities, and shuttle services), and Civil Rights claims
22 based on inaccessible shuttle services and Defendants' denial of
23 Plaintiff Adeyemi's Resident Advisor application, see Compl. at
24 ¶¶ 164-65, 170-73, the Court requires further briefing. The
25 Court is informed that Plaintiffs no longer reside at the
26 residence at issue in this case and thus the action may be moot.
27 Accordingly, IT IS HEREBY ORDERED that:

28 1. The findings and recommendations (ECF No. 6) are

1 ADOPTED IN PART.

2 2. Plaintiffs' motion for removal from superior court (ECF
3 No. 4) is DENIED.

4 3. To the extent that Plaintiffs' motion (ECF No. 4)
5 operated as a notice of removal, the state court action (Regents
6 of the University of California v. Adeyemi et al., UD 16-1743) is
7 REMANDED to the Yolo County Superior Court, and the Clerk of this
8 Court shall serve a copy of this order on the Yolo County
9 Superior Court.

10 4. All claims arising from the denial of lease extension
11 are dismissed as barred by res judicata.

12 5. If Plaintiffs wish to proceed on the ADA and Civil
13 Rights claims that are not related to the lease extension,
14 Plaintiffs are ordered to file a Supplemental Brief to show cause
15 why the action should not be dismissed as moot. This
16 Supplemental Brief is due thirty days from the date of this
17 order.

18 6. Plaintiffs' state law claims (First, Second, and Tenth
19 Causes of Action) are dismissed for lack of jurisdiction.

20 7. The Court will rule on Plaintiffs' motion to proceed *in*
21 *forma pauperis* (ECF No. 2) and motion for reconsideration (ECF
22 No. 16) after receiving and considering Plaintiffs' Supplemental
23 Brief.

24 IT IS SO ORDERED.

25 Dated: June 26, 2017

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JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE