UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM BARKER,

Plaintiff,

v.

OSEMWINGIE, et al.,

Defendants.

No. 2:16-cv-3008 JAM CKD P

ORDER

Plaintiff is a state prisoner proceeding through counsel with an action pursuant to Titles II and V of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12132, 12203; Section 504 of the Rehabilitation Act (RA) of 1973; California's Disabled Persons Act (DPA), Cal. Civ. Code §§ 54.1, 54.3; the Unruh Civil Rights Act (URCA), Cal. Civ. Code §§ 51, 52; and 42 U.S.C. § 1983. (ECF No. 8-1.) The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 11, 2017, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. (ECF No. 42.) Plaintiff has filed objections to the findings and recommendations (ECF No. 43) and defendants have responded to the objections (ECF No. 44).

////

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed August 11, 2017 (ECF No. 42), are adopted in full.

2. Plaintiff's motion for a temporary restraining order (ECF No. 9) is denied.

3. Defendants' motion to dismiss (ECF No. 32) is granted.

4. Counts One through Five and the portion of Count Six alleging defendant Ramiscal abandoned plaintiff are dismissed without leave to amend. The portion of Count Six related to the claim that defendants Osemwingie and Ramiscal misused the hoyer lift is dismissed with leave to amend.

5. Plaintiff has thirty days from the filing of this order to file an amended complaint.

DATED: 12/19/2017

/s/ John A. Mendez
UNITED STATES DISTRICT COURT JUDGE