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Accordingly, IT IS HEREBY ORDERED that:

1. Defendants’ September 19, 2018 motion to dismiss (ECF No. 17) is denied without prejudice as having been rendered moot¹; and
2. The October 26, 2018 hearing of defendants’ motion to dismiss is vacated.

Also, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections shall be served and filed within seven days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: September 20, 2018


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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¹ If these findings and recommendations are not adopted in full by the assigned District Judge, defendants may re-notice the motion to dismiss for hearing before the undersigned.