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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL WITKIN,
Plaintiff,
v.
MARIANA LOTERSZTAIN, et al.,
Defendants.

No. 2:19-cv-0406 DJC KJN P

ORDER

Plaintiff, a state prisoner proceeding pro se, filed this civil rights action seeking relief under 42 U.S.C. § 1983. 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 March 31 2023, 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. Plaintiff filed objections to the findings and recommendations. (ECF No. 97.) Defendants filed a response. (ECF No. 98.)

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.

1 Accordingly, IT IS HEREBY ORDERED that the findings and recommendations
2 filed March 31, 2023, are adopted in full; and moving Defendants' motion for
3 summary judgment (ECF No. 53) is granted in part and denied in part, as follows:

4 1. Defendant Dr. Lotersztain is denied summary judgment on Plaintiff's Eighth
5 Amendment and First Amendment retaliation claims;

6 2. Defendants Scott, Largoza, Kuersten, and Gates are granted summary
7 judgment on Plaintiff's Eighth Amendment claims;

8 3. Defendants Lotersztain, Scott, Largoza, Kuersten, and Gates are granted
9 summary judgment on Plaintiff's state law claims;

10 4. Defendant Lotersztain's request for qualified immunity is denied without
11 prejudice; and

12 5. This matter is remanded to the Magistrate Judge for further scheduling.

13
14 IT IS SO ORDERED.

15 Dated: May 12, 2023


16 Hon. Daniel J. Calabretta
17 UNITED STATES DISTRICT JUDGE

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