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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RUBY BRADLEY,  
  
Plaintiff,  
  
v.  
  
COUNTY OF SACRAMENTO  
DEPARTMENT OF HUMAN  
ASSISTANCE,  
  
Defendant.

No. 2:19-cv-02419-TLN-CKD  
**ORDER**

Plaintiff Ruby Bradley (“Plaintiff”) has filed this civil action seeking relief under Title VII of the Civil Rights Act of 1964, the Fair Employment and Housing Act, and the Americans with Disabilities Act.<sup>1</sup> (ECF No. 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 November 11, 2020, the magistrate judge filed findings and recommendations, which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen days. (ECF No. 29.) On November 25, 2020,

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<sup>1</sup> Plaintiff initiated this matter *pro se* but is currently represented by counsel, as discussed herein.

1 Plaintiff timely filed Objections to the Findings and Recommendations. (ECF No. 33.) On  
2 December 1, 2020, Defendant filed a Response to Plaintiff’s Objections. (ECF No. 34.)

3 This Court reviews *de novo* those portions of the proposed findings of fact to which  
4 objection has been made. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore*  
5 *Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982); *see*  
6 *also Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). As to any portion of the proposed  
7 findings of fact to which no objection has been made, the Court assumes its correctness and  
8 decides the motions on the applicable law. *See Orand v. United States*, 602 F.2d 207, 208 (9th  
9 Cir. 1979). The magistrate judge’s conclusions of law are reviewed *de novo*. *See Britt v. Simi*  
10 *Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

11 Having carefully reviewed the entire file under the applicable legal standards, and good  
12 cause appearing, the Court finds that it is appropriate to adopt in part and reject in part the  
13 Findings and Recommendations for the reasons stated herein.

14 Plaintiff initiated this action *pro se* and filed her First Amended Complaint (“FAC”) while  
15 proceeding *pro se*. (ECF Nos. 1, 22.) The recent Findings and Recommendations recommended  
16 dismissal with prejudice because Plaintiff’s FAC failed to cure the defects of the original  
17 Complaint and it did not appear that Plaintiff would be able to cure such defects through further  
18 amendment. (ECF No. 29.) The Court agrees the FAC is deficient.

19 However, after the magistrate judge issued the Findings and Recommendations, Plaintiff  
20 moved to allow Kellan Steven Patterson to appear in this action as Plaintiff’s counsel of record  
21 and the magistrate judge granted Plaintiff’s motion. (ECF Nos. 30–31.) Plaintiff’s Objections  
22 seek leave to file an amended complaint on the basis that Plaintiff may now, with the benefit of  
23 counsel, cure the previously identified defects. (ECF No. 33 at 3–4.) Plaintiff further argues that  
24 she can now more readily utilize the informal meet and confer process to resolve any legal  
25 contentions with Defendant prior to filing an amended complaint so as to avoid the need for  
26 further motions to dismiss. (*Id.* at 4.) The Court finds Plaintiff’s arguments are persuasive.  
27 “[L]eave to amend should be granted if it appears at all possible that the plaintiff can correct the  
28 defect.” *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (*en banc*) (quoting *Balistreri v.*

1 *Pacifica Police Dep't*, 901 F.2d 696, 701 (9th Cir. 1988)). Therefore, in light of counsel's  
2 appearance on behalf of Plaintiff, the Court rejects the Findings and Recommendations with  
3 respect to the recommendation to dismiss the FAC with prejudice and instead grants leave to file  
4 an amended complaint.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. The Findings and Recommendations filed on November 12, 2020 (ECF No. 29), are  
7 adopted in part and rejected in part as follows:

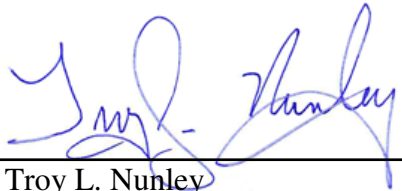
8 2. Defendant's Motion to Dismiss (ECF No. 23) is GRANTED with leave to amend.

9 3. Plaintiff shall file an amended complaint not later than thirty days after the electronic  
10 filing of this Order. Defendant shall file a responsive pleading in accordance with the Local  
11 Rules and Federal Rules of Civil Procedure.

12 IT IS SO ORDERED.

13 DATED: December 17, 2020

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Troy L. Nunley  
United States District Judge