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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JENNIFER GAINES,  
Plaintiff,  
v.  
CARL LANGURAND,  
Defendant.

Case No. 2:21-cv-00808-KJM-JDP (PS)

ORDER

On February 12, 2024, 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. No objections were filed.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court . . .”). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis, with one minor modification.


Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations filed February 12, 2024, are ADOPTED;
2. Defendant’s motion to dismiss, ECF No. 13, is GRANTED IN PART;

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3. Plaintiff's official capacity claims for damages, including punitive damages, are DISMISSED without leave to amend;
4. Plaintiff's non-official capacity state law claims are DISMISSED without prejudice to refile in a court of competent jurisdiction after plaintiff has complied with the California Government Claims Act;
5. The motion to dismiss is DENIED in all other respects; and
6. This matter is referred back to the assigned magistrate judge for all further pretrial proceedings.

DATED: March 25, 2024.

  
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CHIEF UNITED STATES DISTRICT JUDGE