

1 On June 19, 2014, Magistrate Judge Skomal issued a report and recommendation
2 (“Report”), recommending that Valenzuela’s Motion for Summary Judgment be denied
3 in part and granted in part—denied as to Plaintiff’s claim that he was locked in a hot,
4 unventilated van and granted as to Plaintiff’s claim that he was forced to stand bare-
5 chested against a hot wall. (ECF No. 70.) Magistrate Judge Skomal set a deadline of
6 July 7, 2014, to file any objections to the Report. To date, the Court has received no
7 objections to the Report.

8 A district judge’s role in reviewing a magistrate judge’s report and
9 recommendation is set forth in 28 U.S.C. § 636(b)(1). Under this statute, a district
10 judge “shall make a de novo determination of those portions of the report . . . to which
11 objection is made,” and “may accept, reject, or modify, in whole or in part, the findings
12 or recommendations made by the magistrate [judge].” When no objections are filed,
13 the Court may assume the correctness of the magistrate judge’s findings of fact and
14 decide the motion on the applicable law. Campbell v. United States Dist. Ct., 501 F.2d
15 196, 206 (9th Cir. 1974); Johnson v. Nelson, 142 F. Supp. 2d 1215, 1217 (S.D. Cal.
16 2001). Under such circumstances, the Ninth Circuit has held that “a failure to file
17 objections only relieves the trial court of its burden to give de novo review to factual
18 findings; conclusions of law must still be reviewed de novo.” Barilla v. Ervin, 886
19 F.2d 1514, 1518 (9th Cir. 1989) (citing Britt v. Simi Valley Unified Sch. Dist., 708
20 F.2d 452, 454 (9th Cir. 1983)).

21 Because no objections to the Report have been filed, the Court assumes the
22 correctness of Magistrate Judge Skomal’s factual findings and adopts them in full. The
23 Court has conducted a de novo review of Magistrate Judge Skomal’s legal conclusions
24 and finds the Report provides a cogent analysis of Valenzuela’s Motion for Summary
25 Judgment.

26 Accordingly, **IT IS HEREBY ORDERED** that:

- 27 1. The Report, (ECF No. 70), is **ADOPTED** in its entirety.
- 28 2. Valenzuela’s Motion for Summary Judgment, (ECF No. 66), is **DENIED**


1 **IN PART and GRANTED IN PART.**

- 2 3. Magistrate Judge Skomal is directed to set a **mandatory settlement**
3 **conference** at the earliest opportunity.
- 4 4. All parties or their counsel shall also fully comply with the pretrial
5 disclosure requirements of Federal Rule of Civil Procedure 26(a)(3) on or
6 before **September 19, 2014**. **Failure to comply with these disclosures**
7 **requirements could result in evidence preclusion or other sanctions**
8 **under Federal Rule of Civil Procedure 37;**
- 9 5. The parties or their counsel shall meet together and take the action
10 required by Local Rule 16.1(f)(4) on or before **September 26, 2014**. At
11 this meeting, the parties or their counsel shall discuss and attempt to enter
12 into stipulations and agreements resulting in simplification of the triable
13 issues. The parties or their counsel shall exchange copies and/or display
14 all exhibits other than those to be used for impeachment. The exhibits
15 shall be prepared in accordance with Local Rule 16.1(f)(4)(c). The parties
16 or their counsel shall note any objections they have to any other party's
17 pretrial disclosures under Fed. R. Civ. P. 26(a)(3). The parties and their
18 counsel shall cooperate in the preparation of the proposed pretrial
19 conference order. Counsel for Defendants shall have the duty of
20 arranging these meetings.
- 21 6. Counsel for Defendants shall be responsible for arranging the meetings
22 and preparing the proposed pretrial order required by Local Rule
23 16.1(f)(6). On or before **October 3, 2014**, defense counsel must provide
24 Plaintiff or his counsel with the proposed pretrial order for review and
25 approval. Plaintiff or his counsel must communicate promptly with
26 defense counsel concerning any objections to form or content of the
27 proposed order, and both parties shall attempt to promptly resolve their
28 differences, if any, concerning the proposed order.

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- 7. The proposed pretrial order, including objections to any other party's Federal Rule 26(a)(3) pretrial disclosures shall be prepared, served, and lodged with the undersigned's chambers on or before **October 10, 2014**, and shall be in the form prescribed in, and comply with, Local Rule 16.1(f)(6).
- 8. The final pretrial conference shall be held before the undersigned on **October 17, 2014, at 1:30 p.m.** Defense counsel shall be responsible for coordinating Plaintiff's telephonic appearance at the final pretrial conference.
- 9. Dates for motions in limine and trial will be set at the final pretrial conference.

DATED: July 15, 2014


HON. GONZALO P. CURIEL
United States District Judge