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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 STEPHANIE RAE VARAO,
12 Plaintiff,
13 v.
14 NANCY A. BERRYHILL, I, Acting
15 Comm'r of Social Security,
16 Defendant.

Case No.: 17CV2463-LAB (JLB)

**ORDER ADOPTING REPORT
AND RECOMMENDATION; AND**

**ORDER OF DISMISSAL
WITHOUT PREJUDICE**

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18 Plaintiff Stephanie Varao took appealed the denial of social security disability
19 benefits. As provided by 28 U.S.C. § 636(b), the case was referred to Magistrate
20 Judge Jill Burkhardt for report and recommendation.

21 Judge Burkhardt granted Varao's motion to proceed *in forma pauperis*
22 ("IFP"), then conducted the mandatory screening required by 28 U.S.C. § 1915(e).
23 In her report and recommendation (the "R&R"), Judge Burkhardt noted that the
24 complaint did not meet the standard set forth in Fed. R. Civ. P. 8 and discussed in
25 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The R&R recommended dismissal of
26 the complaint without prejudice.

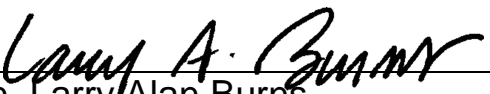
27 Varao then filed a document styled as her objections to the R&R. A district
28 court has jurisdiction to review a Magistrate Judge's report and recommendation

1 on dispositive matters. Fed. R. Civ. P. 72(b). The Court may accept, reject, or
2 modify, in whole or in part, the R & R's findings or recommendations. 28 U.S.C.
3 § 636(b)(1). The Court reviews de novo those portions of the R & R to which
4 specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114,
5 1121 (9th Cir.2003) (en banc).

6 Varao's "objections" in fact agree with everything in the R&R, and attach a
7 proposed amended complaint which she believes cure the defects the R&R
8 identified. Because Varao agrees the original complaint is subject to dismissal,
9 the Court **OVERRULES** her objections, **ADOPTS** the R&R, and **DISMISSES THE**
10 **COMPLAINT** without prejudice. Varao shall file her proposed amended complaint
11 promptly — and in any event, within 14 calendar days of the date this order is
12 issued. Judge Burkhardt should screen the amended complaint and, if
13 appropriate, order it served.

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15 **IT IS SO ORDERED.**

16 Dated: January 4, 2018

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19 Hon. Larry Alan Burns
United States District Judge