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28UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BRIAN WRIGHT,

Plaintiff,

v.

KIMBERLY FRAYN, *et al.*,

Defendants.

Case No. 2:17-cv-01844-MMD-CWH

ORDER ADOPTING AND ACCEPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE  
CARL W. HOFFMAN, JR.

Before the Court is the Report and Recommendation of United States Magistrate Judge Carl W. Hoffman, Jr. (ECF No. 13) (“R&R”) relating to Plaintiff’s motion for summary judgment (ECF No. 11) and motion for default judgment (ECF No. 12) (collectively, “Motions”). Judge Hoffman recommends denying Plaintiff’s Motions without prejudice as they are premature—Plaintiff’s application to proceed *in forma pauperis* and Complaint have not been addressed. (ECF No. 13.) Plaintiff had until August 23, 2018 to object. (*Id.*) To date, no objection to the R&R has been filed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a

1 magistrate judge's report and recommendation where no objections have been filed. See  
2 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard  
3 of review employed by the district court when reviewing a report and recommendation to  
4 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
5 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the  
6 view that district courts are not required to review "any issue that is not the subject of an  
7 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then  
8 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.  
9 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
10 which no objection was filed).

11 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
12 determine whether to adopt Magistrate Judge Hoffman's R&R. Upon reviewing the R&R  
13 and the filings in this case, this Court finds good cause to adopt the Magistrate Judge's  
14 R&R in full.

15 It is therefore ordered, adjudged, and decreed that the Report and  
16 Recommendation of Magistrate Judge Carl W. Hoffman, Jr. (ECF No. 13) is accepted  
17 and adopted in its entirety.

18 It is further ordered that Plaintiff's pending motions (ECF Nos. 11, 12) are denied  
19 without prejudice.

20 DATED THIS 27<sup>th</sup> day of August 2018.

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23 MIRANDA M. DU  
24 UNITED STATES DISTRICT JUDGE  
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