## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

JOHN TURNER,

Plaintiff

v.

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POLO TOWERS MASTER OWNERS ASSOCIATION, INC., et al.,

**Defendants** 

Case No.: 2:17-cv-02042-APG-CWH

**Order Accepting Report and** Recommendation, Denying Motion to Dismiss as Moot, and Setting Deadline for **Fourth Amended Complaint** 

[ECF Nos. 39, 59]

On December 6, 2018, Magistrate Judge Hoffman recommended that I deny defendant Polo Towers Master Owners Association, Inc.'s motion to dismiss as moot, as it is directed at an earlier version of plaintiff John Turner's complaint. ECF No. 59. Judge Hoffman also 12 recommended that I dismiss Turner's third amended complaint because it is illegible, and that I 13 set a deadline for Turner to file a fourth amended complaint. *Id.* No one filed an objection. 14 Thus, I am not obligated to conduct a de novo review of the report and recommendation. 28 15 U.S.C. § 636(b)(1) (requiring district courts to "make a de novo determination of those portions 16 of the report or specified proposed findings to which objection is made"); *United States v.* 17 Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) ("the district judge must review the 18 magistrate judge's findings and recommendations de novo if objection is made, but not 19 otherwise" (emphasis in original)).

IT IS THEREFORE ORDERED that Magistrate Judge Hoffman's report and 21 recommendation (ECF No. 59) is accepted, defendant Polo Towers Master Owners Association, 22 Inc.'s motion to dismiss (ECF No. 39) is DENIED as moot, and plaintiff John Turner's third 23 amended complaint (ECF No. 37) is dismissed without prejudice.

complaint on or before January 31, 2019. If Turner chooses to file a fourth amended complaint, it must be clearly printed or typed. To the extent Turner is attempting to bring a claim under 42 U.S.C. § 1983, Turner must allege facts indicating that: (1) a right secured by the Constitution or laws of the United States was violated, and (2) the alleged violation was committed by a person acting under color of state law. See West v. Atkins, 487 U.S. 42, 48 (1988). Turner must ascribe particular conduct to particular defendants. All defendants must be identified in the caption of the pleading and all defendants must be named in the section of the second amended complaint designated for that purpose. Although the Federal Rules of Civil Procedure adopt a flexible pleading standard, Turner still must give the defendants fair notice of his claims against them and of his entitlement to relief. Furthermore, Turner is advised that if he files a fourth amended 12 complaint, his previous complaints no longer serve any function in this case. As such, if Turner files a fourth amended complaint, it must be complete in and of itself without reference to prior pleadings or other documents. The court cannot refer to a prior pleading or other documents to

the approved form for filing a § 1983 complaint, instructions for the same, and a copy of his third 18 amended complaint (ECF No. 37) for his reference.

DATED this 3rd day of January, 2019.

make Turner's fourth amended complaint complete.<sup>1</sup>

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<sup>1</sup> As Judge Hoffman previously ordered, defendant Polo Towers need not respond to any filings in this case, including a fourth amended complaint, unless the court orders otherwise. See ECF No. 59 at 5.

IT IS FURTHER ORDERED that the clerk of court shall provide to plaintiff John Turner

ANDREW P. GORDON

UNITED STATES DISTRICT JUDGE

IT IS FURTHER ORDERED that plaintiff John Turner may file a fourth amended