

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

HEATH VINCENT FULKERSON,

Plaintiff,

v.

STATE OF NEVADA DEPARTMENT
OF BUSINESS AND INDUSTRY, et al.,

Defendants.

Case No. 3:20-cv-00410-MMD-CLB

ORDER

In this case, pro se Plaintiff Heath Vincent Fulkerson attempts to sue the Nevada Department of Business and Industry and the Hartford Financial Insurance Group for insufficiently paying out on purported worker’s compensation claims. Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge Carla L. Baldwin (ECF No. 3), primarily recommending upon screening Plaintiff’s proposed complaint that his proposed claims be dismissed with prejudice as frivolous because they are duplicative of claims he unsuccessfully tried to raise in a very similar case. Plaintiff had until October 27, 2020 to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will primarily dismiss Plaintiff’s Complaint with prejudice.

The 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 fails to object to a magistrate judge’s recommendation, 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); see also United States v. Reyna-Tapia, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but only if, one or both parties file objections to the

1 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory
2 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
3 clear error on the face of the record in order to accept the recommendation.”).

4 Because there is no objection, the Court need not conduct de novo review, and is
5 satisfied Judge Baldwin did not clearly err. Here, Judge Baldwin recommends the Court
6 grant Plaintiff’s application to proceed in forma pauperis because Plaintiff appears unable
7 to pay the filing fee. (ECF No. 3 at 2.) Judge Baldwin then recommends the Court dismiss
8 this case “as frivolous or malicious under § 1915(e)” because the claims he raises here
9 “are directly related—and are in fact identical—to those raised in another action filed by
10 Fulkerson in Case No. 3:20-cv-00400-MMD-CLB.” (Id. at 4.) The Court agrees with Judge
11 Baldwin. Having reviewed the R&R and the record in this case, the Court will adopt the
12 R&R in full.

13 It is therefore ordered that Judge Baldwin’s Report and Recommendation (ECF
14 No. 3) is accepted and adopted in full.

15 It is further ordered that Plaintiff’s application to proceed in forma pauperis (ECF
16 No. 1) is granted.


17 It is further ordered that Plaintiff’s motion to submit complaint (ECF No. 1-2) is
18 granted.

19 The Clerk of Court is directed to file Plaintiff’s Complaint (ECF No. 1-1).

20 It is further ordered that Plaintiff’s Complaint (ECF No. 1-1) is dismissed, in its
21 entirety, with prejudice.

22 The Clerk of Court is further directed to enter judgment accordingly and close this
23 case.

24 DATED THIS 17th Day of November 2020.

25
26 
27 _____
28 MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE