

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MICHAEL HERNANDEZ,
Plaintiff,

2:16-cv-01495-SU
OPINION AND ORDER

v.

FEDEX FREIGHT, INC., TOM
MELDER, ROB JASPER, and
CHRISTY TAYMAN,

Defendants.

BROWN, Judge.

Magistrate Judge Patricia Sullivan issued Findings and Recommendation (#31) on June 12, 2017, in which she recommends this Court grant in part and deny in part the Motion (#10) to Dismiss filed by Defendants as follows: deny the Motion as to Defendant Rob Jasper, grant the Motion as to Defendants Tom Melder and Christy Tayman, and dismiss Plaintiff's claims against Melder and Tayman without prejudice. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule

of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, this Court is relieved of its obligation to review the record *de novo*. See *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*). Having reviewed the legal principles *de novo*, the Court does not find any error.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Sullivan's Findings and Recommendation (#10). Accordingly, the Court **GRANTS in part and DENIES in part** Defendants' Motion (#10) to Dismiss as follows:

1. **DENIES** Defendants' Motion to Dismiss Plaintiff's Ninth Claim as to Defendant Jasper on the ground that Plaintiff has pled sufficient facts to state a plausible claim against him and
2. **GRANTS** Defendants' Motion to Dismiss Plaintiff's Ninth Claim as to Defendants Medler and Tayman on the ground that Plaintiff has failed to plead sufficient facts to state a plausible claim, **DISMISSES** that Claim **without prejudice**, and

GRANTS Plaintiff **leave to replead** as to Defendants Medler and
Tayman.

IT IS SO ORDERED.

DATED this 21st day of July, 2017.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge