IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

MARY JO PULLEN-HUGHES,

Plaintiff,

v.

PARRIS LaCARIA, individually; **JOSEPH LUIZ**, individually; **DAVID NOORDELOOS**, individually; **CLIFFORD HOECKER**, individually; **ANNA ZEIGER KEPHART**, individually; **ELIZABETH EAMES**, individually; **JENNA PLANK**, individually; **DAVID WOBORIL**, individually; **DALE HOSKINS**, individually; **ERIC WAHLSTROM**, individually; **JOHN DOES 1-3**, individually; **CITY OF PORTLAND**, a municipality; **CITY OF GRESHAM**, a municipality; **MULTNOMAH COUNTY**,

Defendants.

Case No.: 3:11-cv-01271-PK

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS

SIMON, District Judge.

Magistrate Judge Paul Papak filed Findings and Recommendations in the above-captioned case on March 15th, 2013. Dkt. 135. Judge Papak recommended that the Court grant defendants Noordeloos, Kephart, Wahlstrom and LaCaria's motion to dismiss. Dkt. 109. Judge Papak also recommended that the Court grant defendants City of Gresham and Hoecker's motion for summary judgment. Dkt. 125. Finally, Judge Papak recommended that the Court should *sua*

sponte dismiss all claims against the remaining nonmoving defendants John Doe 1, John Doe 2, John Doe 3, Multnomah County, and the City of Portland. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe a standard of review. In such cases, "[t]here is no indication that Congress . . . intended to require a district judge to review a magistrate's report[.]" *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*), *cert. denied*, 540 U.S. 900 (2003) (the court must review de novo magistrate's findings and recommendations if objection is made, "but not otherwise").

Although review is not required in the absence of objections, the Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court review the magistrate's findings and recommendations for "clear error on the face of the record."

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Papak's Findings and Recommendations for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Judge Papak's Findings and Recommendations. Dkt. 135. The Court **GRANTS** defendants Noordeloos, Kephart, Wahlstrom and LaCaria's motion to dismiss.

Dkt. 109. In addition, the Court **GRANTS** defendants City of Gresham and Hoecker's motion for summary judgment. Dkt. 125. The Court also **DISMISSES** the claims against the remaining nonmoving Defendants. This case is **DISMISSED** with prejudice.

IT IS SO ORDERED.

Dated this 12th day of April, 2013.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge