

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DAVID J. OGLE,¹

3:12-CV-00571-BR

Plaintiff,

ORDER

v.

RALPH A. YATES, D.O.; LISA A.
CORNELIUS, D.P.M.; KATHLEEN
HALEY, Esq.; DOUGLAS B.
KIRKPATRICK, M.D.; DONALD E.
GIRARD, M.D.; GEORGE N.
KOVAL, M.D.; ROGER M. MCKIMMY,
M.D.; LEWIS D. NEACE, D.O.;
KEITH A. WHITE, M.D.; W. KENT
WILLIAMSON, M.D.; SHERIDAN A.
THIRINGER, D.O.; JOSEPH J.
THALER, M.D.; ERIC BROWN;
MEI-MEI WANG; TERRY LEWIS;
OREGON MEDICAL BOARD; WARREN
G. FOOTE, Esq.; CAROLYN
ALEXANDER; DAVID SCHUMAN;
ROBERT WOLLHEIM; LYNN R.
NAKAMOTO; STATE OF OREGON;
50 JOHN DOES; 50 JANE DOES,

Defendants.

¹ Although Plaintiff referred to himself as M.D. in his Complaint, the use of the title "doctor" is governed by Oregon Revised Statute § 676.110 and the record reflects Plaintiff no longer qualifies to use the title doctor. Accordingly, the Court declines to use the title in this Order.

BROWN, Judge.

Magistrate Judge Janice M. Stewart issued Findings and Recommendation (#4) on April 6, 2012, in which she recommends the Court *sua sponte* (1) dismiss with prejudice Plaintiff's claims against Defendants Oregon Medical Board, Warren G. Foote, Carolyn Alexander, David Schuman, Robert Wollheim, Lynn R. Nakamoto, and the State of Oregon; (2) dismiss without prejudice Plaintiff's claims against Defendants Ralph A. Yates, Lisa A. Cornelius, Kathleen Haley, Douglas B. Kirkpatrick, Donald E. Girard, George N. Koval, Roger M. McKimmy, Lewis D. Neace, Keith A. White, W. Kent Williamson, Sheridan A. Thiringer, Joseph J. Thaler, Eric Brown, Mei-Mei Wang, and Terry Lewis; and (3) grant Plaintiff leave to file an Amended Complaint to cure the deficiencies noted in the Findings and Recommendation. Plaintiff filed timely Objections and Supplemental Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*).

This Court has carefully considered Plaintiff's Objections

and Supplemental Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#4) and, therefore,

1. **DISMISSES with prejudice** Plaintiff's claims against Defendants Oregon Medical Board, Warren G. Foote, Carolyn Alexander, David Schuman, Robert Wollheim, Lynn R. Nakamoto, and the State of Oregon;
2. **DISMISSES without prejudice** Plaintiff's claims against Defendants Ralph A. Yates, Lisa A. Cornelius, Kathleen Haley, Douglas B. Kirkpatrick, Donald E. Girard, George N. Koval, Roger M. McKimmy, Lewis D. Neace, Keith A. White, W. Kent Williamson, Sheridan A. Thiringer, Joseph J. Thaler, Eric Brown, Mei-Mei Wang, and Terry Lewis; and
3. **GRANTS** Plaintiff leave to file an Amended Complaint only as to Defendants Ralph A. Yates, Lisa A. Cornelius, Kathleen Haley, Douglas B. Kirkpatrick, Donald E. Girard, George N. Koval, Roger M. McKimmy,

Lewis D. Neace, Keith A. White, W. Kent Williamson, Sheridan A. Thiringer, Joseph J. Thaler, Eric Brown, Mei-Mei Wang, and Terry Lewis to cure the deficiencies set out in the Findings and Recommendation **no later than July 19, 2012**. Plaintiff is advised that failure to file an Amended Complaint that cures the deficiencies noted in the Findings and Recommendation shall result in the dismissal of this proceeding with prejudice.

IT IS SO ORDERED.

DATED this 28th day of June, 2012.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge