

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**JOSE RAMIREZ,**

Plaintiff,

v.

**LINCARE, INC.,**  
a Florida corporation,

Defendant,

No. 3:14-cv-00836-ST

OPINION AND ORDER

**MOSMAN, J.,**

On April 16, 2015, Magistrate Judge Stewart issued her Findings and Recommendation (“F&R”) [31] in the above-captioned case, recommending that Defendant Lincare, Inc.’s (“Lincare”) Motion for Summary Judgment [16] should be granted against Plaintiff Jose Ramirez’s Second claim and otherwise denied. Lincare objected to the F&R, arguing that summary judgment should be granted as to all claims.

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Stewart's recommendation, and I ADOPT the F&R [31] as my own opinion. Lincare's Motion for Summary Judgment [16] is GRANTED against Mr. Ramirez's Second claim and otherwise DENIED.

IT IS SO ORDERED.

DATED this 7th day of July, 2015.

/s/ Michael W. Mosman  
MICHAEL W. MOSMAN  
United States District Judge