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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

DERRICK T. TOLIVER,

Plaintiff,

v.

CORIZON HEALTH, **SHARRON BRENNAN, MANDY, and CRAIG ROBERTS**,

Defendants.

No. 3:16-cv-02034-PK

OPINION AND ORDER

MOSMAN, J.,

On November 7, 2017, Magistrate Judge Paul Papak issued his Findings and Recommendation (F&R) [59], recommending that Defendants' Motion to Dismiss [40] should be GRANTED and Motion to Dismiss [49] should be GRANTED in part and DENIED in part. Defendant Roberts objected [61].

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

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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 Papak's recommendation and I ADOPT the F&R [59] as my own opinion. Defendants' Motion to Dismiss [40] is GRANTED and the claim dismissed without prejudice and Motion to Dismiss [49] is GRANTED in part and the claim dismissed without prejudice as to Plaintiff's claims against Corizon Health and DENIED in part as to Plaintiff's claims against Brennan and Mandy.

IT IS SO ORDERED.

DATED this 2nd day of February, 2018.

/s/Michael W. Mosman

MICHAEL W. MOSMAN
Chief United States District Judge