

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ISAAC A. POTTER, JR.,

Plaintiff,

No. 3:16-cv-02090-SB

v.

ORDER

DARK HORSE COMICS, INC.,
MICHAEL RICHARDSON,
PAULINA GANUCHEAU,
KEVIN PANETTA, and
ROBERTA BREN,

Defendants.

HERNÁNDEZ, District Judge:

Magistrate Judge Beckerman issued a Findings and Recommendation [68] on September 19, 2017, in which she recommends that this Court grant the Motion to Dismiss [61] filed by Defendants Dark Horse Comics, Michael Richardson, Paulina Ganucheau, and Kevin Panetta (“Moving Defendants”). The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Plaintiff filed timely objections to the Magistrate Judge's Findings & Recommendation. Pl.'s Obj., ECF 71. When any party objects to any portion of the Magistrate Judge's Findings & 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); *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).

I have carefully considered Plaintiff's objections and conclude there is no basis to modify the Findings & Recommendation. I have also reviewed the pertinent portions of the record *de novo* and find no other errors in the Magistrate Judge's Findings & Recommendation.

Judge Beckerman also recommends this Court dismiss Plaintiff's claims against non-moving Defendant Roberta Bren, who was added as a defendant in Plaintiff's amended complaint. F&R 2 n. 1 (citing Am. Compl. 2, ECF 60). Plaintiff was granted leave to proceed *in forma pauperis*. Order, ECF 10. This Court may dismiss a complaint filed *in forma pauperis* at any time, including before service of process, if it determines that the action "fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2); *see also Neitzke v. Williams*, 490 U.S. 319, 324 (1989) (*sua sponte* dismissals under section 1915 "spare prospective defendants the inconvenience and expense of answering" complaints which are "frivolous, malicious, or repetitive"); *Lopez v. Smith*, 203 F.3d 1122, 1126 n.7 (9th Cir. 2000) (section 1915(e) applies to all *in forma pauperis* complaints, not just those filed by inmates).

Plaintiff's claims against Defendant Bren appear to be identical to the deficient claims asserted against the Moving Defendants. Am. Compl. 9, 32. Plaintiff, therefore, has failed to state a claim for relief against Defendant Bren. And Plaintiff's failure to cure the deficiencies identified in his initial complaint suggests "Plaintiff is unable to remedy the deficiencies that the


Court already brought to his attention.” F&R 9. Accordingly, the Court also dismisses the claims against Defendant Bren with prejudice.

CONCLUSION

The Court ADOPTS Magistrate Judge Beckerman’s Findings and Recommendation [68] granting Defendants Motion to Dismiss [61]. This case is dismissed with prejudice.

IT IS SO ORDERED.

DATED this 27 day of November, 2017.



MARCO A. HERNÁNDEZ
United States District Judge