

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

BENJAMIN BARBER,

Plaintiff,

v.

**MEAGAN VANCE, ELLEN
ROSENBLUM, BRAD AVAKIAN,
KATE BROWN, BEN CANNON, LYNNE
SAXTON in their official capacity,**

Defendants.

Case No. 3:16-cv-2105-AC

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on February 7, 2018. ECF 263. Judge Acosta recommended that the Defendant Meagan Vance's motion for attorney's fees be granted and that she be awarded attorney's fees in the requested amount of \$6,650.

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).

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For those portions of a magistrate’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. See *Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Magistrates 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 recommendations for “clear error on the face of the record.”

Plaintiff timely filed a document purporting to object to the Findings and Recommendation. ECF 273. Plaintiff’s objections, however, challenge the underlying findings in his state court criminal case and in this Court’s order dismissing his first claim for relief and granting Ms. Vance’s anti-SLAPP motion. Plaintiff does not challenge specific findings in the Findings and Recommendation relating to the reasonableness of the proposed fees, or challenge any particular aspect of Ms. Vance’s motion for attorney’s fees. Accordingly, the Court does not find that Plaintiff adequately has objected to the Findings and Recommendation.

The Court therefore follows the recommendation of the Advisory Committee and reviews the Findings and Recommendation for clear error on the face of the record. No such error is apparent. Moreover, even if the Court did interpret Plaintiff’s filing as sufficiently objecting to the Findings and Recommendation and conducted a de novo review of the Findings and

Recommendation, the Court would still agree with and adopt the reasoning and analyses of Judge Acosta.

CONCLUSION

The Findings and Recommendation (ECF 263) is ADOPTED. Defendant Meagan Vance's motion for attorney's fees (ECF 165) is GRANTED. Attorney's fees are awarded in the amount of \$6,650.

IT IS SO ORDERED.

DATED this 30th day of March, 2018.

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