

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

S.D., and *ex rel.* D.D. and
Next Friend of M.D

Case No. 6:17-cv-00770-MK
ORDER

Plaintiff,

vs.

CLIDE SAIKI, *et al.*,

Defendants.

AIKEN, District Judge:

Magistrate Judge Jolie Russo¹ filed her Findings and Recommendation (“F&R”) (doc. 76) recommending that defendants’ Motion to Dismiss (doc. 65) should be granted.² The matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

¹ This case was originally assigned to Magistrate Judge Jolie Russo. Subsequent to the filing of the F&R, the case was reassigned to Magistrate Judge Mustafa Kasubhai on October 15, 2018.

² Magistrate Judge Russo also recommended granting plaintiffs’ counsel’s Motion to Withdraw. (doc. 73) This Court previously granted that motion (doc 79) to clarify plaintiffs’ ability to file objections to the F&R.

When either party objects to any portion of a magistrate judge's F&R, the district court must make a *de novo* determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert denied*, 455 U.S. 920 (1982).

Plaintiffs have filed timely objections³ (doc. 88), and defendants have filed a response to those objections (doc. 91). Thus, this Court reviews the F&R *de novo*.

This Court has carefully reviewed plaintiffs' objections, exhibits, and ancillary requests made in their emergency and amended petitions (docs. 90 and 92). The Court finds no error in Judge Russo's analysis, and thus adopts the F&R in its entirety. Further, plaintiffs' requests to transfer this case to United States Bankruptcy Court in the District of Oregon are DENIED. Also, given that, in adopting the F&R, this Court is granting plaintiff sixty days from this order to find substitute counsel, plaintiff's motion for extension of time (doc. 96) GRANTED IN PART, however, all other requests made in that motion are DENIED.

CONCLUSION

This Court adopts Magistrate Judge Russo's F&R (doc. 76). Accordingly, defendant's Motion to Dismiss (doc. 65) is GRANTED, and plaintiffs' Third Amended Complaint is dismissed, without prejudice.

Plaintiffs shall file a Status Report with Magistrate Judge Kasubhai within 60 days of this order, apprising him as to whether they have obtained substitute counsel or will proceed *pro se*. Thereafter, discovery and pretrial deadlines shall be reset. Further, all discovery disputes and other requests for relief will be resolved once an appropriate amended complaint have been filed with Court.

³ This Court twice granted motions from plaintiffs for extensions of time to file objections. The Court now grants plaintiffs third motion for extension of time (doc. 87) only to the extent that plaintiffs' filed objections (doc. 88) are deemed timely.

Finally, as noted above, plaintiffs' Motion for Extension of Time (doc. 87) is GRANTED only to the extent that plaintiffs' objections (doc. 88) are timely. Plaintiffs' other requests for relief (doc. 90 and 92) are DENIED. Further, plaintiff's Emergency Motion for Extension of Time (doc. 96) is GRANTED IN PART and DENIED IN PART. Plaintiffs are granted sixty days from this order to continue to seek alternate representation. All other requests in the motion are denied at this time.

IT IS SO ORDERED.

Dated this 27 day of January, 2019.



Ann Aiken
United States District Judge