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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

MATS JARLSTROM, an individual,

Plaintiff,

v.

CITY OF BEAVERTON, an Oregon municipal corporation,

Defendant.

Case No. 3:14-cv-00783-AC

DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS TO MAGISTRATE'S FINDINGS AND RECOMMENDATION

INTRODUCTION

Plaintiff objects to Magistrate Judge Acosta's Findings and Recommendation ("F&R") on numerous grounds. This will respond to the major contentions. Defendant's position is that absent an injury in fact, plaintiff lacks standing thereby depriving this Court of subject matter jurisdiction. Because there is no scenario where plaintiff could cure his Complaint deficiencies, his lawsuit was properly dismissed with prejudice. This Court should adopt the F&R but also address the alternative argument advanced by the City that dismissal is proper for plaintiff's failure to state a claim.

ARGUMENT

1. The Court Should Exercise its Discretion and Refuse to Consider Evidence not Presented to the Magistrate Judge

In support of his F&R objections, plaintiff has included two new Declarations and four new exhibits. (Pltf's Obj. to F&R Decls. Jarlstrom, Payne). Because the Magistrate Judge was not provided these documents, this Court should decline to consider them.

"[A] district court has discretion, but is not required, to consider evidence presented for the first time in a party's objection to a magistrate judge's recommendation." *U.S. v. Howell*, 231 F3d 615, 621 (9th Cir. 2000). The district court must actually exercise its discretion, rather than merely accepting or denying the motion. *Sossa v. Diaz*, 729 F3d 1225, 1231 (9th Cir. 2013).

> "The magistrate judge system was designed to alleviate the workload of district courts. To require a district court to consider evidence not previously presented to the magistrate judge would effectively nullify the magistrate judge's consideration of the matter and would not help relieve the workload of the district court . . . Equally important, requiring the district court to hear evidence not previously presented to the magistrate judge might encourage sandbagging."

Howell, 231 F3d at 622. (citations omitted) (emphasis added).

Plaintiff filed a Complaint, attached exhibits to that Complaint, and submitted a Declaration in support of his opposition to the City's Motion to Dismiss. Having failed to establish any actual injury, he has now filed a lengthier Declaration, with primarily self-generated exhibits, in support of his objections to the F&R. He offers no reason why he was unable to present this evidence for Judge Acosta to consider. To allow this new evidence now would nullify the purpose of alleviating the district court's workload, and encourage parties to sandbag alternative arguments in an effort to salvage a defective Complaint following an adverse

ruling. The Declaration of Ms. Payne is unnecessary as the proceedings before Judge Acosta are already part of the court record. (Pltf's Obj. to F&R Payne Decl. ¶ 2).

Plaintiff's new Declaration also raises serious question about his qualifications and prior representations. In opposing the City's Motion, he contended that he is a "self-employed electronics engineer," yet he now clarifies that he is not actually a registered professional engineer. (Pltf's Opp. to Mtn. Dismiss Jarlstrom Decl. ¶ 1 Dkt. 15; Jarlstrom Decl. ¶ 2 Dkt. 33). A person may be found to be practicing engineering in Oregon by in any way *implying* that the person is a registered professional engineer. ORS 672.007(1). The practice of engineering in Oregon is prohibited without a valid certificate. ORS 672.020. Plaintiff offered himself having an engineering expertise, but apparently he is not an engineer. Plaintiff has never been a traffic engineer in any jurisdiction and it is now clear he is not even a registered engineer. Plaintiff may not practice engineering, to include implying to the Court that he had qualifications that he does not. (Jarlstrom Decl., Dkt 15, p. 1).

Because plaintiff offers no reason why this evidence was not presented before Judge Acosta, and because his information is not grounded in any recognized relevant expertise, the Court should exercise its discretion and refuse to consider evidence not presented to Judge Acosta.

2. Plaintiff Presented Evidence Outside the Complaint that the Magistrate Judge Properly Considered

"The party invoking federal jurisdiction bears the burden of establishing standing. Each element must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and degree of evidence required at the successive stages of the litigation." *Susan B. Anthony List v. Driehaus*, __ U.S. __, 134 S.Ct. 2334, 2342 (2014) (quotations and alterations omitted). "In resolving a factual attack on jurisdiction, the district

court may review evidence beyond the complaint without converting the motion to dismiss into a motion for summary judgment." *Safe Air for Everyone v. Meyer*, 373 F3d 1035, 1039 (9th Cir. 2004). Only where a motion to dismiss is a factual attack must the party opposing the motion present affidavits or other evidence before the Court. *Id.*

Plaintiff objects that the City's Motion is a facial, not factual, challenge but yet it is he who has introduced, or attempted to introduce, new facts and evidence at every procedural step. (Pltf's Obj. to F&R, p. 4). He attached an exhibit to his Complaint, filed a Declaration in support of his opposition to the City's Motion to Dismiss, and now attempts to file additional Declarations and exhibits in his objections to the F&R. Affidavits and other evidence are only required in a factual attack.

Additionally, Judge Acosta reviewed evidence beyond the Complaint in resolving the City's Motion to Dismiss as he is allowed to do at his own election. (F&R pp. 1-2, 6). "[A] court may raise the question of subject matter jurisdiction, *sua sponte*, at any time during the pendency of the action...." *Snell v. Cleveland, Inc.*, 316 F3d 822, 826 (9th Cir. 2002). Thus, even if the City's standing challenge was deemed facial only, Judge Acosta's *sua sponte* standing challenge could be factual, as he specifically looked at the facts and found them presenting a nonjusticiable conflict.

Conversely, if the City's challenge was a facial attack only, then the supporting documents offered by plaintiff, and relied upon by Judge Acosta, should not be considered, and plaintiff can rely only on the allegations contained in his Complaint to meet his burden of establishing jurisdiction. *Berhardt v. Cnty of Los Angeles*, 279 F3d 862, 869 (9th Cir. 2002) (on motion to dismiss the Court looks only to the face of complaint to establish standing). Plaintiff has progressively offered more and more evidence and Affidavits in an attempt to bolster and

bootstrap a meritless Complaint into a *plausible* claim for relief. However, stripping away the superfluous information clearly illustrates just how inadequate his allegations are – if he cannot meet his burden to prove standing when the Complaint, Declarations, and exhibits are evaluated, then standing is certainly lacking when two of those types of documents are ignored. Ignoring all of the additional evidence relied on by Judge Acosta, and contested by the City in replying to plaintiff's response, it remains apparent that even taking all of the allegations *in the Complaint* as true, and applying the law of standing, plaintiff failed to establish a claim or controversy; failed to properly invoke statutory jurisdictional requirements; and failed to state a claim for relief. Thus, any error by the Magistrate would be harmless since the Court may affirm or modify the F&R on *de novo* review. FRCP 72 (b)(3).

Plaintiff contends that Judge Acosta erred because he "is not required to *prove* his allegations at the motion to dismiss stage of the litigation" but that misses the point. (Pltf's Obj. to F&R, p. 5) (emphasis in original). The party invoking federal jurisdiction has the burden of proving subject matter jurisdiction exists and must do so at every stage of the litigation. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 512, 126 S.Ct. 1235 (2006). Subject matter jurisdiction cannot be forfeited or waived. *Ashcroft v. Iqbal*, 556 U.S. 662, 671, 129 S.Ct. 1937 (2009). "[W]hen a federal court concludes that it lacks subject-matter jurisdiction, the court *must* dismiss the complaint in its entirety." *Arbaugh*, 546 U.S. at 514 (emphasis added). Subject matter jurisdiction must exist and plaintiff has the burden of proving it. If there is no subject matter jurisdiction, dismissal is not only proper, but required.

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3. Plaintiff does not have Standing

a. Plaintiff has not been injured and no future injury is certainly impending.

It is now undisputed that plaintiff has not been *actually* injured. He inferentially admits to not being injured as he specifically objects that he need only show a *risk of injury* as sufficient. (Pltf's Obj. to F&R, p. 14). Thus, his "injury in fact" propounded for standing is one that is allegedly "imminent," rather than "actual." *Lujan v. Defenders of Wildlife*, 505 U.S. 555, 559, 112 S.Ct. 2130 (1992) (injury in fact must be "(a) concrete and particularized, and (b) actual *or* imminent, not conjectural or hypothetical").

> "'Although imminence is concededly a somewhat elastic concept, it cannot be stretched beyond its purpose, which is to ensure that the alleged injury is not too speculative for Article III purposes – that the injury is *certainly* impending.' Thus, we have repeatedly reiterated that 'threatened injury must be *certainly impending* to constitute injury in fact,' and that 'allegations of *possible* future injury' are not sufficient."

Clapper v. Amnesty Intern. USA, __ U.S. __, 133 S.Ct. 1138, 1147 (2013) (emphasis in original, alterations omitted) *quoting Lujan*, 504 U.S. at 565 n2, *Whitmore*, 495 U.S. at 158. Plaintiff's reliance on a Ninth Circuit decision that he only need show a "credible threat of future injury" is incorrect. (Pltf's Obj. to F&R, p. 6). The Supreme Court has stated that where a plaintiff alleges an imminent injury, an injury in fact is only shown if the alleged threatened injury is "*certainly impending*." *Clapper,* 133 S.Ct. at 1147.

Plaintiff does not have any "certainly impending" injury here; he merely hypothesizes that an injury may someday occur, or that there is a danger to drivers at large (and pedestrians) based on traffic control signals. (Pltf's Obj. to F&R, p. 9-10). This hypothesis is contradicted by plaintiff's *actual* experience – he has lived in the City for 19 years and drives on roads at least ten times a week. (Pltf's Opp. to Def's Mtn. Dismiss Jarlstrom Decl. ¶ 2). In all that time, nearly ten thousand trips through the City, he has apparently not been in an accident as either a driver or

a pedestrian, nor does he allege even seeing an accident at any identified intersection. As no such accident has actually occurred in nearly two decades, his own *possible* injury is certainly *not* impending based on his anecdotal history.

Plaintiff's continued reliance on the Ninth Circuit decision in *Nat'l Res. Def. Counsel v. U.S. E.P.A.*, 735 F3d 873 (9th Cir. 2013) ignores binding precedent from the United States Supreme Court. (Pltf's Obj. to F&R, pp. 11-14). In *NRDC*, relied upon by plaintiff, the Ninth Circuit required in a pesticide case involving possible threat to children, only a "'credible threat' that a probabilistic harm will materialize [to be] necessary for standing." 735 F3d at 878. This standard of "probabilities" and "credibilities" is similar to the Second Circuit's "objectively reasonable likelihood" that was more recently rejected by the Supreme Court, where it emphasized that an injury must be "certainly impending." *Clapper*, 133 S.Ct. at 1147. The "certainly impending" standard has been reiterated by the Supreme Court repeatedly. *See e.g. Lujan*, 504 U.S. at 564 n2 (threatened injury must be certainly impending); *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 190, 120 S.Ct. 693 (2000) (threatened injury is certainly impending); *Whitmore v. Arkansas*, 495 U.S. 149, 158, 110 S.Ct. 1717 (1990) (quotations omitted) ("Allegations of possible future injury do not satisfy the requirements of Art. III. A threatened injury must be certainly impending to constitute an injury in fact"). The Supreme Court has recently again reaffirmed this standard. *SBA List v. Driehaus*, 134 S.Ct. at 2341 (decided June 16, 2014).

Nor does the fact that plaintiff seeks "only" injunctive relief affect the calculus. (Pltf's Obj. to F&R, p. 6). "It goes without saying that an injunction is an equitable remedy. It 'is not a remedy which issues as of course[.]'" *Weingerger v. Romero-Barcelo*, 456 U.S. 305, 311, 102 S.Ct. 1798 (1982) *quoting Harrisonville v. W.S. Dickey Clay Mfg. Co.*, 289 U.S. 334, 337-338,

53 S.Ct. 602 (1933). Indeed, as plaintiff has suffered no actual injury, he could only seek an injunction, as only an injunction regulates future conduct. (Def's Reply to Pltf's Opp. to Mtn. Dismiss, p. 4). As an injunction is an extraordinary remedy, only extraordinary circumstances will justify one. Plaintiff's prosaic allegations of his traffic concerns do not rise to this level, and his years of experience driving through the City plainly demonstrate that there is no "certainly impending" injury. As plaintiff has suffered no injury in fact, the Magistrate properly found that he lacked standing.

b. The Ripeness Doctrine overlaps with standing and similarly supports no subject matter jurisdiction.

"The constitutional component of the ripeness inquiry is often treated under the rubric of standing and, in many cases, ripeness coincides squarely with standing's injury in fact prong." *Thomas v. Anchorage Equal Rights Com'n*, 220 F3d 1134, 1138 (9th Cir. 1999) (ripeness inquiry merges almost completely with standing in assessing whether injury is more than speculative and hypothetical). Due to that overlap, the Ninth Circuit applies standing's "certainly impending" standard in evaluating ripeness. *Coons v. Lew*, __ F3d __, 2014 WL 3866475, *3 (9th Cir. 2014). Speculative allegations with respect to a potential future injury "that are 'wholly contingent upon the occurrence of unforeseeable events' are insufficient to satisfy the constitutional prong of our ripeness doctrine." *Id.* at *4 *quoting Thomas*, 220 F3d at 1141. Speculative future events that have not, and may never occur, are not justiciable. *Coons*, *supra* at *4 (affirming dismissal of plaintiff's substantive due process claims and statutory challenge). Ripeness is designed to prevent the courts form entangling themselves in abstract disagreements. *Nat'l Park Hospitality Ass'n v. Dept. of Interior*, 538 U.S. 803, 807, 123 S.Ct. 2026 (2003).

Plaintiff's Complaint alleges nothing more than an abstract disagreement over traffic control signals. He has not suffered any actual injury in 19 years of driving on the roads and

walking across intersections. Innumerable factors could cause a traffic accident injuring a person or vehicle, and any analysis by plaintiff is speculative and wholly contingent upon events beyond the timing of traffic controls.[1] Moreover, as plaintiff is not a certified engineer, let alone a traffic engineer, his abstract disagreement with the City is based upon his own lay opinion. Therefore, plaintiff has no injury and under the standing doctrine, as illuminated by the ripeness doctrine, there would be no subject matter jurisdiction.

c. Because there is no injury in fact, there is no causal connection.

Plaintiff also contends that the F&R erred in finding that his alleged injury is neither traceable to the City nor redressable by a favorable decision. (Pltf's Obj. to F&R, p. 16); *Nuclear Information and Resource Service v. Nuclear Regulatory Com'n*, 457 F3d 941, 949 (9th Cir. 2006) (plaintiff's injury in fact must be traceable to the challenged action of defendant and show that the injury will be redressed by a favorable decision).

First, the F&R properly concluded that plaintiff does not have an injury in fact. (F&R, p. 13-14). As Judge Acosta noted, because plaintiff does not have an injury, it is impossible to trace what does not exist (the injury) to any challenged action of the City. Nor can a favorable decision redress that which does not exist. (*Id.* p.14).

Second, the F&R properly found that even if he was injured, he could not prove that injury was caused by the City rather than a pedestrian or motorist disregarding the law. *Id.*

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[1] Various reasons for being injured in a traffic collision without regards to traffic control devices conceivably and reasonably may include a person driving under the influence, a driver distracted by a cell phone, a speeding vehicle, a vehicle impeding traffic by proceeding too slowly, a child chasing a ball into the street, jaywalking, a vehicle's mechanical failure (such as a tire blow out or defective brakes), an emergency vehicle passing through the intersection, *force majeure* (such as an earthquake), inclement weather conditions, poor road conditions, a driver failing to obey traffic control devices (e.g. running a red light or stop signs), inexperienced drivers (such as teenagers), a vehicle design defect, improper turning through an intersection, failure to yield, tailgating, drowsy driving, and animals (whether wild or domestic) in the roadway and on and on.

Should plaintiff ever be in an accident, as either a pedestrian or motorist, a purely hypothetical contention at this time, it could be for a myriad of reasons, as illustrated in footnote 1. Indeed, any of the City's hypotheses are more likely than plaintiff's hypothesis. Notwithstanding any imaginable cause of a collision, plaintiff also represents stopping distances as being definite. (Pltf's Obj. to F&R, p. 9). To reiterate, plaintiff is not a traffic engineer and he fails to account for the fact that vehicles have different stopping distances: a tractor trailer will not stop as quickly as a sedan, etc. Thus, an injury in fact could be caused by any number of conceivable factors and a favorable decision either would, or more likely based on the number of possible causes, would not, redress such an injury. However, as there is no injury in fact, it is impossible to say whether an accident is caused by traffic control devices, and whether a decision changing the yellow light timing will alleviate any *future* risk of injury. Consequently, plaintiff failed to establish these two additional requirements to assert constitutional standing.

Plaintiff relies heavily on the omission of pedestrian risks in the F&R. (Pltf's Obj. to F&R, pp. 8-11). In his Complaint, plaintiff alluded to a danger to pedestrians only twice, and both times they were grouped together with drivers and passengers of vehicles. (Compl. ¶ 1, 12). Similarly, in his opposition to the City's Motion to Dismiss, the danger to pedestrians was grouped together with drivers and passengers. (Pltf's Opp. to Mtn. Dismiss, p. 4). Additionally, not until objecting to the F&R has plaintiff alleged that *he* is a pedestrian at the intersection. (Pltf's Obj. to F&R, p. 8). Moreover, the numerous references to traffic lights, and not crosswalk signals, and traffic tickets to vehicle drivers certainly muddle his current reliance on an immaterial matter. (Compl. ¶¶ 6-11; 14-15). Regardless, as plaintiff alleged in his Complaint and in opposition to the City's Motion to Dismiss, the alleged danger is the same. (Compl. ¶ 1; Pltf's Opp. to Mtn. Dismiss, p. 4 ("the yellow light intervals . . . are too short to allow a safe

stopping distance for vehicles and expose him, *either as a pedestrian or as a driver or passenger* in a vehicle, to a serious risk of injury...")). Therefore, any omission of pedestrian analysis in the F&R is immaterial and likely was a method used by the Magistrate to omit the superfluous.

Plaintiff appears to assess the risk to pedestrians as high based on pedestrians having the right of way. (Pltf's Obj. to F&R, p. 8). Notwithstanding any legal *right* to cross a street, a pedestrian must still exercise caution. No provisions of the vehicle code, including pedestrian right of way, "relieve a pedestrian from the duty to exercise due care . . ." ORS 811.005. Thus, a pedestrian cannot boldly enter a crosswalk just because he has the right of way. Rather, he must exercise due care to ensure it is *safe* to use his right of way. As every parent teaches her children, you must look both ways before crossing the street. As an adult, surely plaintiff is mature and experienced enough to judge whether a car will be able to stop before he ventures off the relative safety of the curb. Indeed, as he has not been hit by a car, the Court can infer that he is aware of the danger and has exercised due care.

4. Generalized Grievance

Plaintiff's claim is little more than a generalized grievance. "The federal courts have abjured appeals to their authority which would convert the judicial process into 'no more than a vehicle for the vindication of the value interests of concerned bystanders.'" *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 473, 102 S.Ct. 752 (1982) *quoting U.S. v. SCRAP*, 412 U.S. 669, 687, 93 S.Ct. 2405 (1973). Thus, "the Court has refrained from adjudicating 'abstract questions of wide public significance' which amount to 'generalized grievances,' pervasively shared and most appropriately addressed in the representative branches." *Valley Forge*, 454 U.S. at 475. A plaintiff's complaint must be within the zone of interests protected by the constitutional guarantee in question. *Id.*

The constitutional guarantee at issue, as finally clarified by plaintiff, is the Due Process Clause of the Fourteenth Amendment.

> "The Clause is phrased as a limitation on the State's power to act, not as a guarantee of certain minimal levels of safety and security. It forbids the State itself to deprive individuals of life, liberty, or property without 'due process of law,' but its language cannot fairly be extended to impose an affirmative obligation on the State to ensure that those interests do not come to harm through other means."

DeShaney v. Winnebago Cnty Dept. of Social Services, 489 U.S. 189, 195, 109 S.Ct. 998 (1989).

This constitutional guarantee does not extend to obligating the City to ensure that a person's life, liberty, or property do not come to harm through means over which it has little control. As stated above, and as should be obvious, a person's interests could be harmed by any number of speculative accidents. Plaintiff's Complaint is about those dangers that face all persons, and not himself in any concrete or particularized manner. *See Jewel v. National Sec. Agency*, 673 F3d 902, 909 (9th Cir. 2011) (alterations omitted) *quoting Massachusetts v. EPA*, 549 U.S. 497, 517, 127 S.Ct. 1438 (2007). Plaintiff emphasizes his objections to the F&R on the imminence issue, and largely ignores the requirement that an injury in fact must be both imminent, *and* concrete and particularized. *Lujan*, 505 U.S. at 559.

5. Plaintiff's Complaint was Properly Dismissed with Prejudice as no Facts Could Cure the Deficiencies

Judge Acosta properly found that plaintiff failed to cure the constitutional inadequacies of his Complaint and, therefore, denied plaintiff's Motion for leave to amend. (F&R, p. 15-16). Because there are no circumstances where plaintiff could plead to establish an injury in fact, or he would have, the F&R should be adopted.

Leave to amend is properly denied if the amendment would be futile. *Carrico v. City and County of San Francisco*, 656 F3d 1002, 1008 (9th Cir. 2011). "Leave to amend should only be

granted 'when justice so requires.'" *Puente v. Cnty of Los Angeles*, 358 Fed Appx 909, 911 (9th Cir. 2009) *quoting* FRCP 15(a)(2). Leave to amend should not be granted, and so justice does not require it, "where the record demonstrates 'bad faith, undue delay, prejudice to the opposing party, and futility of amendment.'" *Id. quoting Ditto v. McCurdy*, 510 F3d 1070 (9th Cir. 2007).

As plaintiff readily acknowledges, leave to amend *should* be denied if the amendment would be futile. (Pltf's Obj. to F&R, p. 17; Def's Opp. to Mtn. to Amend, p. 1 (futility alone can justify denial of motion for leave to amend)). Denial of leave to amend on futility grounds is proper if it is clear that the complaint cannot be saved by any amendment. *Berg v. Honeywell Intern., Inc.*, __ Fed Appx __, 2014 WL 2854502, *1 (9th Cir. 2014). As set forth in his proposed Amended Complaint, plaintiff alleges a single claim for a deprivation of substantive due process rights. Because plaintiff does not have standing, and no amendment could cure the issue, and because he sought to bring only a disfavored and limited substantive due process constitutional claim, Judge Acosta properly concluded that any amendment would be futile and, therefore, dismissed the Complaint with prejudice. (F&R, p.15-16).

Plaintiff's sole proposed claim for relief is that his constitutional rights have been violated by a state created danger. Such a theory is an *exception* to the general rule outlined in § 4, *supra*. *Patel v. Kent School Dist.*, 648 F3d 965, 971-72 (9th Cir. 2011). Secondly, the state created danger theory is one of two exceptions to the *DeShaney* general rule. *Id.* The Supreme Court formally recognized the special-relationship exception but has not formally recognized the state-created danger exception. *Id.* at 972, 974. Thus, plaintiff's sole claim for relief is predicated on a theory that even the Supreme Court has not formally recognized. The Supreme Court "has always been reluctant to expand the concept of substantive due process because the

guideposts for responsible decisionmaking in this unchartered area are scarce and open-ended." *Albright v. Oliver*, 510 U.S. 266, 271-72, 114 S.Ct. 807 (1994).

Neither plaintiff nor the City have identified any case where a conjectural theory such as his has been found to fit within an exception to the general rule. Indeed, the City identified a number of similar cases where a party was found not to have standing, let alone to state a claim for relief. (Def's Mtn. Dismiss, p. 3). The exception to the general rule requires high standards of intent and affirmative conduct. (*Id.* pp. 7-9). Quite simply, there are no additional facts plaintiff could allege that could either overcome the jurisdictional hurdle of standing, the justiciable doctrine of ripeness, or the pleading requirement of stating a claim for relief.

CONCLUSION

The Court is respectfully requested to exercise its discretion and refuse to consider plaintiff's new evidence and to adopt the Magistrate Judge's Findings and Recommendation, with the additional holding that plaintiff also failed to state no claim for relief.

DATED this 22nd day of September, 2014.

/s/ Gerald L. Warren
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Attorney for Defendant City of Beaverton

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS TO MAGISTRATE'S FINDINGS AND RECOMMENDATION on:

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by the following indicated method or methods:

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DATED this 22nd day of September, 2014.

/s/ Gerald L. Warren
Gerald L. Warren, OSB #814146
Attorney for Defendant City of Beaverton

Linda LaPlante

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nt: Monday, September 22, 2014 10:31 AM
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