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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	EUGENE E. FORTE,	No. 1:15-cv-0147-KJM-BAM
12	Plaintiff,	
13	v.	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS  (Doc. No. 27)
14	MERCED COUNTY, et al.,	
15	Defendants.	
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17	On August 24, 2015, Plaintiff Euguene Forte filed his first amended complaint in this	
18	action seeking relief in connection with alleged constitutional violations against numerous	
19	defendants. (Doc. No. 18.) The matter was referred to United States Magistrate Judge Barbara	
20	A. McAuliffe pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.	
21	On January 13, 2016, the assigned Magistrate Judge issued findings and recommendations	
22	recommending that plaintiff's first claim of relief against defendants Merced County, Larry	
23	Morse, Mark Pazin, Alan Turner, James Fincher, James Padron, Jerry O' Banion, Merced County	
24	Deputies Chris Jaskowiak, Chris Picinich, Mike Hill, Adam Leuchner, Merced County Sherriff's	
25	Department, Merced County Counsel's Office, City of Los Banos, LB Chief Gary Brizzee, LB	
26	Officer Anthony Parker, McLatchy Newspapers, and Corey Pride be dismissed with prejudice on	
27	res judicata grounds. (Doc. No. 27.) The magistrate judge also recommended that the remainder	
28	of plaintiff's complaint be dismissed with leave to amend for failure to state a claim. (Id.) Those	

findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fifteen days of service of the order. (*Id.*) On January 29, 2016, plaintiff filed his objections. (Doc. No. 28.)

In his objections, plaintiff contends that the assigned magistrate judge erred in referring to his related lawsuit (*Forte v. Merced County*, Case No. 1:11-cv-318-AWI-BAM (E.D. Cal.) — dismissed with prejudice), while failing to refer to his other lawsuit (*Forte v. Merced County*, Case No. 1:11-cv-718-AWI-BAM (E.D. Cal.), where the jury awarded what plaintiff characterizes as "rare punitive damages." (Doc. No. 28 at 3-4.) As noted by the magistrate judge, the court may take notice of facts that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b); *United States v. Bernal-Obeso*, 989 F.2d 331, 333 (9th Cir. 1993). The court's docket is a source whose accuracy cannot reasonably be questioned, and judicial notice may be taken of court records. *Mullis v. United States Bank. Ct.*, 828 F.2d 1385, 1388 n.9 (9th Cir. 1987); *Valerio v. Boise Cascade Corp.*, 80 F.R.D. 626, 635 n. 1 (N.D. Cal. 1978), *aff'd*, 645 F.2d 699 (9th Cir. 1981).

It was not error for the magistrate judge to refer to previous actions filed by plaintiff<sup>1</sup> in which he asserted the same causes of action that he has attempted to present in this action in determining whether his instant complaint is barred by res judicata. That plaintiff received a punitive damages award in a different action on a different claim, obviously has no bearing on whether plaintiff's first claim for relief in the instant complaint is barred by res judicata. Plaintiff's remaining objections to the findings and recommendations do not address the underlying determination by the assigned magistrate judge that plaintiff's other claims for relief presented in his instant complaint fail to state cognizable claims and provide no basis upon which to award him the monetary relief he seeks.

In accordance with the provisions of Title 28 of the United States Code section 636(b)(1)(c), this court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the court finds that the findings and recommendations are supported by the record

<sup>&</sup>lt;sup>1</sup> As acknowledged by plaintiff, he is a frequent litigator in this court.

1 and proper analysis. 2 Based upon the foregoing: 3 1. The Findings and Recommendations (Doc. No. 27), filed January 13, 2016, are 4 ADOPTED IN FULL; 2. Plaintiff's Claim 1 is DISMISSED with prejudice, based upon the res judicata doctrine 5 6 as to defendants Merced County, Larry Morse, Mark Pazin, Alan Turner, James 7 Fincher, James Padron, Jerry O' Banion, Merced County Deputies Chris Jaskowiak, 8 Chris Picinich, Mike Hill, Adam Leuchner, Merced County Sherriff's Department, 9 Merced County Counsel's Office, City of Los Banos, LB Chief Gary Brizzee, LB 10 Officer Anthony Parker, McLatchy Newspapers, and Corey Pride; 11 3. Plaintiff is granted leave to file a second amended complaint within thirty (30) days from the date of service of this order; 12 13 4. Any second amended complaint plaintiff may elect to file is limited to 25 pages, 14 exclusive of exhibits and will be stricken from the record if it violates this page 15 limitation; and 16 5. If plaintiff fails to file a second amended complaint within the time provided herein, 17 this action will be dismissed for failure to prosecute and failure to obey a court order. 18 IT IS SO ORDERED. 19 Dated: **February 25, 2016 UNITED STATES DISTRICT** 20 21 22 23 24 25 26

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