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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MARK EVAN GRANGETTO, by and
through his Guardian Ad Litem, Nora
Weber,

Plaintiff,

v.

CAL TERHUNE, et al.,

Defendants.

) 1:07cv0438 LJO DLB

)
) ORDER REGARDING DEFENDANTS'
) MOTION TO DISMISS

) (Document 22)

Defendants Derral G. Adams and David J. Kyle, M.D. (“Defendants”) filed the instant motion to dismiss on February 27, 2009. The matter was heard on April 3, 2009, before the Honorable Dennis L. Beck, United States Magistrate Judge. James Flynn appeared on behalf of Defendants. Cindy Cannon appeared on behalf of Plaintiff Mark Grangetto, by and through his Guardian Ad Litem Nora Weber (“Plaintiff”).

Defendants’ motion to dismiss was based, in part, on abstention principles. There are two actions currently proceeding in state court that involve Plaintiff’s current mental competency- an ongoing probate matter and a recent Keyhea¹ proceeding initiated by Defendants. The outcome of these state proceedings could possibly conflict with this Court’s determination on Plaintiff’s

¹ Keyhea v. Rushen, 178 Cal.App.3d 526 (1986) (setting forth the procedures for involuntary administration of antipsychotic medications).

1 claims for injunctive relief and abstention would therefore be proper under Younger. Gilbertson
2 v. Albright, 381 F.3d 965, 970 (9th Cir. 2004).

3 _____ At the hearing, Plaintiff proposed filing an amended complaint that deleted the claims for
4 injunctive relief and instead focused on Plaintiff's damages claims for the period prior to the
5 filing of this action. Defendants did not object to this proposal.

6 Accordingly, pursuant to the parties' discussion at the hearing, Plaintiff SHALL file an
7 amended complaint within twenty (20) days. Defendants SHALL respond to the amended
8 complaint within twenty (20) days from the date of service.

9 Defendants' motion to dismiss is therefore DENIED as MOOT.

10
11 IT IS SO ORDERED.

12 **Dated: April 3, 2009**

13 **/s/ Dennis L. Beck**
14 **UNITED STATES MAGISTRATE JUDGE**