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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RAUL SANCHEZ ZAVALA,

CASE NO. 1:12-cv-00930-SKO (PC)

Plaintiff,

ORDER (1) CONSOLIDATING ACTION WITH CASE NUMBER 1:09-cv-00679-MJS (PC) AND CLOSING CASE, (2) REQUIRING PLAINTIFF TO FILE MOTION SEEKING LEAVE TO AMEND AND PROPOSED SIXTH AMENDED COMPLAINT IN 1:09-cv-00679-MJS (PC), AND (3) DIRECTING CLERK OF COURT TO FILE AND SERVE ORDER IN BOTH ACTIONS

v.

UNITED STATES,

Defendant.

(Doc. 1)

Plaintiff Raul Sanchez Zavala, a federal prisoner proceeding pro se and in forma pauperis, filed this civil action pursuant to the Federal Tort Claims Act (FTCA) on June 8, 2012. 28 U.S.C. § 1346(b)(1).

The underlying facts giving rise to Plaintiff’s FTCA claim are the same facts being litigated in case number 1:09-cv-00679-MJS (PC) *Zavala v. Rios, et al.* The Court has broad discretion to consolidate actions which involve a common question of law or fact. Fed. R. Civ. P. 42(a)(2); *Pierce v. County of Orange*, 526 F.3d 1190, 1203 (9th Cir. 2008). The Court declines to permit Plaintiff to pursue his FTCA claim in this action while separately pursuing in 1:09-cv-00679-MJS (PC) his civil rights claims against the individual federal employees under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999 (1971). Plaintiff’s litigation strategy is wasteful of the Eastern District of California’s scarce resources, and it has the potential to prejudice one or more parties given the possibility of conflicting rulings and/or should Plaintiff be attempting to do an end run around prior court orders and/or the advice of counsel in 1:09-cv-00679-MJS (PC).

