UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

STEVEN HAIRL WILHELM,	Case No. 1:10-cv-00001 DLB PC
Plaintiff,	ORDER DICHARGING ORDER TO SHOW CAUSE
v.	(Document 59)
DR. ARON ROTMAN,	
Defendant.	

Plaintiff Steven Hairl Wilhelm ("Plaintiff"), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 31, 2009.[1] The action is proceeding against Defendant Rotman for violation of the Eighth Amendment.

On October 29, 2014, the Court issued an order to show cause why sanctions should not be imposed against Defendant Rotman for filing a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) in light of the Ninth Circuit's decision.

Defendant Rotman filed a response on November 7, 2014. Counsel for Defendant Rotman, Ann Larson, acknowledges that the motion should not have been filed, and states that the filing was the result of oversight and insufficient review of the procedural history of this action.

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[1] Plaintiff consented to the jurisdiction of the United States Magistrate Judge on February 3, 2010. Defendant Rotman filed his consent on October 20, 2014.

1   The Court DISCHARGES the order to show cause. However, Counsel is reminded of her

2 duties under Rule 11, and a failure to perform the most basic of reviews comes dangerously close

3 to violating this duty. The Court is generally understanding of the demanding schedules facing

4 attorneys, and will often take such schedules into account during the pendency of an action. In

5 this instance, however, *two* attorneys failed to discover a key procedural event, i.e., the basis under

6 which this action is proceeding. Larson Decl. ¶ 5. This information would have been revealed

7 with a simple review of the docket, and Counsel's failure to do so unnecessarily delayed the action

8 and imposed additional work on the Court.

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10   IT IS SO ORDERED.

11   Dated: **December 13, 2014**   /s/ *Dennis L. Beck*
12   UNITED STATES MAGISTRATE JUDGE