

1 to dismiss a duplicative later-filed action, to stay that action pending resolution of the
2 previously filed action, to enjoin the parties from proceeding with it, or to consolidate both
3 actions.” Adams v. California Dept. of Health Services, 487 F.3d 684, 688 (9th Cir. 2007).
4 “Plaintiffs generally have ‘no right to maintain two separate actions involving the same
5 subject matter at the same time in the same court and against the same defendant.” Id.
6 (quoting Walton v. Eaton Corp., 563 F.2d 66, 70 (3d Cir. 1977) (en banc)). “[A] suit is
7 duplicative if the claims, parties, and available relief do not significantly differ between the
8 two actions .” Id. at 689.

10 Plaintiff’s current Complaint simply copies, verbatim except for heading and date
11 changes and an introduction, eleven pages from his December 18, 2009 complaint. The
12 present pleading deletes language from the original; it does not add anything of substance.
13 In short, everything of substance alleged in the current Complaint also is alleged in the
14 former complaint. This one is duplicative and should be dismissed for that reason.

16 Accordingly, it is HEREBY RECOMMENDED that:

- 17 1. The complaint in this action be dismissed as duplicative of the complaint in
18 case 1:09-cv-02203-MJS-PC, Hunter v. Department of Corrections; and
- 19 2. The Clerk of Court be directed to close this action.
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21 These Findings and Recommendations will be submitted to the United States
22 District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. §
23 636(b)(1). Within thirty (30) days after being served with these Findings and
24 Recommendations, Plaintiff may file written objections with the Court. The document
25 should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.”
26 Plaintiff is advised that failure to file objections within the specified time may waive the right
27

1 to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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3 IT IS SO ORDERED.

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5 Dated: September 29, 2011

Isl. Michael J. Seng

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UNITED STATES MAGISTRATE JUDGE