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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JAMES WHITE,

Plaintiff,

vs.

CASE NO. CV F 10-0429 LJO GSA

**ORDER TO STRIKE PAPERS AND DISMISS
ACTION IN ENTIRETY
(Doc. 18.)**

WELLS FARGO BANK,
N.A., et al,

Defendants.

_____ /
This Court has determined that plaintiff has brought this action in absence of good faith and exploits the court system solely for delay or to vex defendants. This Court has dismissed plaintiff’s claims. Nonetheless, plaintiff continues to burden and plague this Court with mindless filings, including papers filed on May 25, 2010, by which plaintiff purports to seek to vacate judgment and seek default judgment.

The test for maliciousness is a subjective one and requires the court to “determine the . . . good faith of the applicant.” *Kinney v. Plymouth Rock Squab Co.*, 236 U.S. 43, 46 (1915); *see Wright v. Newsome*, 795 F.2d 964, 968, n. 1 (11th Cir. 1986); *cf. Glick v. Gutbrod*, 782 F.2d 754, 757 (7th Cir. 1986) (court has inherent power to dismiss case demonstrating “clear pattern of abuse of judicial process”). A lack of good faith or malice also can be inferred from a complaint containing untrue material allegations of fact or false statements made with intent to deceive the court. *See Horsey v. Asher*, 741 F.2d 209, 212 (8th Cir. 1984).

1 An attempt to vacate judgment is untimely. *See* F.R.Civ.P. 59(e). A meritless attempt to seek
2 default judgment further illustrates plaintiff's attempt to abuse the court system. Plaintiff has
3 demonstrated his malice in this action and his other action, Case No. CV F 10-0229, which this Court
4 also dismissed sua sponte. As such, this Court STRIKES plaintiffs' papers filed on May 25, 2010 and
5 DISMISSES this action in its entirety based on plaintiff's attempt to vex defendants and absence of good
6 faith. **This Court ADMONISHES plaintiff that this Court will impose sanctions, including**
7 **monetary sanctions, if plaintiff continues frivolous filings.** The clerk is directed to enter judgment
8 against plaintiff on all his claims.

9 IT IS SO ORDERED.

10 **Dated: May 27, 2010**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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