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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RAYMOND BALDHOSKY ,

Plaintiff,

v.

SUSAN HUBBARD, et al.,

Defendants.

CASE NO. 1:12-cv-01200-MJS (PC)

**ORDER DISCHARGING ORDER TO
SHOW CAUSE**

(ECF No. 43)

**ORDER SETTING BRIEFING SCHEDULE
ON DEFENDANTS' MOTION TO DISMISS**

(ECF Nos. 40 and 53)

**OPPOSITION DUE WITHIN THIRTY (30)
DAYS**

**REPLY DUE SEVEN (7) DAYS
THEREAFTER**

Plaintiff is a former state prisoner proceeding pro se in this civil rights action brought pursuant to 42 U.S.C. § 1983.

On August 29, 2016, Defendants Gonzalez, Metts, and Kaylor filed a motion to dismiss. (ECF No. 40.) On August 30, 2016, the Court ordered defense counsel to file further briefing and appear at a hearing to show cause why sanctions should not be imposed for filing a motion that identified no grounds for reconsideration of the Court's

1 screening order. (ECF No. 43.) Plaintiff was instructed not to respond to Defendants'
2 motion absent further order of the Court.

3 Defense counsel filed supplemental briefing (ECF No. 47) and appeared at a
4 hearing on October 7, 2016. (ECF No. 52.) Defense counsel was invited to submit
5 supplemental briefing on issues discussed at the hearing, and she was given ten days to
6 do so. (Id.) Her brief was filed October 17, 2016. (ECF No. 53.)

7 Arguments presented at the hearing and in defense counsel's supplemental brief
8 are sufficient to persuade the Court that the motion to dismiss was not brought in bad
9 faith. Accordingly, sanctions will not be imposed, and the order to show cause is
10 HEREBY DISCHARGED.

11 Additionally, the Court sets the following schedule for further briefing on
12 Defendants' motion to dismiss:

- 13 1. Plaintiff may file an opposition within thirty days of the date of this order;
- 14 2. Defendants may file a reply within seven days of Plaintiff's opposition; and
- 15 3. Absent further order of the Court, no surreply is permitted.

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17 IT IS SO ORDERED.

18 Dated: October 26, 2016

/s/ Michael J. Seng
19 UNITED STATES MAGISTRATE JUDGE

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