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5 **UNITED STATES DISTRICT COURT**

6 EASTERN DISTRICT OF CALIFORNIA
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8
9 ANTHONY E. FELDER,

10 Plaintiff,

11 v.

12 LAKSHIMI, et al

13 Defendants.
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Old Case No. 1:14-cv-291 - - - DLB (PC)
New Case No. 1:14-cv-291 AWI JLT (PC)

**ORDER RELATING CASES AND
ASSIGNING DISTRICT JUDGE
ANTHONY W. ISHII AND MAGISTRATE JUDGE
JENNIFER L. THURSTON**

**ORDER CONSOLIDATING FOR
ALL PURPOSES AND ADMINISTRATIVELY
CLOSING CASE 1:14-cv-0291 AWI JLT (PC)**

17 Relation

18 Plaintiff, Anthony E. Felder, is a state prisoner proceeding *pro se* and *in forma pauperis* in
19 this civil action pursuant to 42 U.S.C. § 1983. Plaintiff has filed a motion for leave to amend the
20 complaint and lodged a second amended complaint that indicates his claims involve events
21 surrounding May 16, 2013 at Avenal State Prison. (Docs. 17, 18.) Previously, Plaintiff filed a
22 case based on events surrounding May 16, 2013 at Avenal State Prison, in an action entitled
23 *Felder v. Henson*, 1:13-cv-1622 AWI-JLT (PC). The Court's review of this case and *Felder v.*
24 *Henson* reveals that these actions are related, as that term is defined in Local Rule 123(a).
25 Because reassignment of this action to a single judge is likely to affect a savings of judicial effort
26 and economy, it is appropriate to reassign this action to the same district judge and Magistrate
27 Judge. See Local Rule 123(c).
28

1 Consolidation

2 Federal Rule of Civil Procedure 42(a) provides:

3 If actions before the court involve a common question of law or fact,
4 the court may:

- 5 (1) join for hearing or trial any or all matters at issue in the actions;
6 (2) consolidate the actions; or
7 (3) issue any other orders to avoid unnecessary cost or delay.

8 District courts may consolidate cases *sua sponte*. See In re Adams Apple, 829 F.2d 1484,
9 1487 (9th Cir. 1987). A district court has broad discretion to determine whether and to what
10 extent consolidation is appropriate. See Investors Research Co. v. U.S. Dist. Ct. for the Cent.
11 Dist. of Cal., 877 F.2d 777 (9th Cir. 1989); In re Consol. Parlodel Litig., 182 F.R.D. 441, 444 (D.
12 N.J. 1998). In deciding whether to consolidate, a court should balance the interest of judicial
13 convenience against “any inconvenience, delay, or expense that it would cause.” Huene v. United
14 States, 743 F.2d 703, 704 (9th Cir. 1984); see also Zhu v. UCBH Holdings, Inc., 682 F.Supp.2d
15 1049, 1052 (N.D. Cal. 2010). “[T]he law is clear that an act of consolidation does not affect any
16 of the substantive rights of the parties.” J.G. Link & Co. v. Continental Cas. Co., 470 F.2d 1133,
17 1138 (9th Cir. 1972).

18 The Court finds that consolidation for all purposes will aid both judicial and party
19 efficiency and that consolidation will not cause delay, confusion, or prejudice. Plaintiff is pro se
20 in both cases, and the defendants are represented by the attorneys from the California Attorney
21 General’s office in both cases. The events of the two cases are related to and surround the events
22 of May 16, 2013 at Avenal State Prison. Under these circumstances, consolidating and merging
23 these cases into one case would be efficient. See Davis v. Roane Cnty., 2014 U.S. Dist. LEXIS
24 164309 *6-*7 (E.D. Tenn. Nov. 21, 2014); Intertex, Inc. v. Dri-Eaz Prods., 2013 U.S. Dist.
25 LEXIS 82917, *9-*11 (W.D. Wash. June 11, 2013); Bejarano v. Allison, 2011 U.S. Dist. LEXIS
26 96459, *2-*3 (E.D. Cal. Apr. 29, 2011); cf. Schnable v. Lui, 302 F.3d 1023 (9th Cir. 2002)
27 (describing three possible consolidation procedures under Rule 42, but declining to decide which
28 procedures are proper or improper). Therefore, the Court will order *Felder v. Henson* and *Felder*
 v. Lakshmi consolidated for all purposes, and will administratively close *Felder v. Lakshmi*.

1 Finally, there is a motion to dismiss and a proposed amended complaint that is pending as
2 part of *Felder v. Lakshmi*. The Court will direct the Magistrate to address the motion to dismiss
3 and the amended complaint, and then take steps for Plaintiff to file a single operative complaint.
4 See Tyler v. Alameida, 2010 U.S. Dist. LEXIS 60245, *2 n.2 (E.D. Cal. June 17, 2010).

5
6 **ORDER**

7 Accordingly, the IT IS HEREBY ORDERED that:

- 8 1. Pursuant to Local Rule 123, the above-captioned action, being the higher numbered case,
9 is reassigned to the same district judge and magistrate judge as the lower numbered case;
10 2. This matter, *Felder v. Lakshmi*, shall be given the new case number: 1:14-cv-0291 AWI
11 JLT (PC);
12 3. The Clerk shall consolidate *Felder v. Lakshmi*, 1:14-cv-0291 AWI JLT (PC) with the
13 case of *Felder v. Henson*, 1:13-cv-1622 AWI JLT (PC), for all purposes;
14 4. All future pleadings and/or correspondences shall use case number 1:13-cv-1622 AWI
15 JLT (PC);¹
16 5. The Clerk shall administratively close this case, *Felder v. Lakshmi*, 1:14-cv-0291 AWI
17 JLT;²
18 6. This matter is referred to the Magistrate Judge for further proceedings as described,
19 including the entry of a new scheduling order; and
20 7. The Clerk shall file a copy of this order in Case No. 1:13-cv-1622 AWI JLT (PC).

21
22 IT IS SO ORDERED.

23 Dated: September 8, 2015

24 
25 SENIOR DISTRICT JUDGE

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27 ¹ Use of an incorrect case number or incorrect judge's initials may result in delay in processing documents and
distribution of copies to the judge assigned.

28 ² The Court clarifies that administratively closing a case has no impact whatsoever on the merits of the case.

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