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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

RICK A. HAZELTINE,
Plaintiff,

v.

FRANCES HICKS, et al.,
Defendants.

1:14-cv-00056-DAD-GSA-PC

**ORDER DENYING MOTION TO DECLARE A
CONFLICT OF INTEREST
(ECF No. 55.)**

I. BACKGROUND

Plaintiff Rick A. Hazeltine (“Plaintiff”) is a civil detainee proceeding pro se and in forma pauperis with this civil rights action filed pursuant to 42 U.S.C. § 1983. This case now proceeds with Plaintiff’s First Amended Complaint filed on July 6, 2015, on the following claim: Excessive force in violation of the Fourteenth Amendment against Defendants Ian Young, Benjamin Gamez, Rashaun Casper, Julius Oldan, Porfirio Sanchez Negrete, David

1 Avilia, Rickey Smith, and Charles Ho (collectively “Defendants”). (ECF No. 27.)¹ Counsel
2 for Defendants is employed by the Office of the California Attorney General.

3 On October 5, 2016, Plaintiff filed a motion for the court to declare a conflict of interest
4 concerning the Office of the California Attorney General. (ECF No. 55.) On January 27, 2017,
5 Defendants filed an opposition. (ECF No. 64.) On February 9, 2017, Plaintiff filed a reply.
6 (ECF No. 65.) The motion has been submitted upon the record without oral argument pursuant
7 to Local Rule 230(l).

8 **B. Parties’ Positions**

9 Plaintiff seeks a court order declaring that a conflict of interest exists concerning the
10 Office of the California Attorney General because a claim of Plaintiff’s abuse at Coalinga State
11 Hospital was reported to the Department of Justice four years ago pursuant to the Elder Justice
12 Act of 2009.² Plaintiff asserts that the present § 1983 case originated from the reported claim
13 identified as Elder Abuse claim #SOC 341, case #1309-1381. Plaintiff expresses concern that
14 as a result of the report, Defendants’ counsel in this case may be in possession of information
15 that Plaintiff is not aware of, which may affect this action. Plaintiff requests the court to
16 recognize the potential for unforeseen problems and declare a conflict of interest on these
17 grounds.

18 In opposition, Defendants argue that Plaintiff’s motion lacks merit on its face because
19 Plaintiff filed a federal elder claim under the Federal Elder Abuse Act of 2009, and his claim
20 would be administered by a federal agency, not the State of California. Defense counsel
21 declares that Defendants do not have documents in their possession pertaining to Plaintiff’s
22 alleged claim, and the California Department of Justice has no record of any elder abuse claim
23

24 ¹ On August 21, 2015, the Court issued an order dismissing all remaining claims from this
25 action. (ECF No. 29.)

26 ² The Elder Justice Act of 2009 (42 U.S.C §§ 1320b–25, 1395i–3a, 1397j, 1397j–1, 1397k,
27 1397k–1 to 1397k–3, 1397l, 1397m, 1397m–1 to 1397m–5) encompasses laws imposing obligations on federal
28 and state governments and nursing facilities requiring them to ensure that nursing facility residents receive certain
benefits. Schwerdtfeger v. Alden Long Grove Rehab. & Health Care Ctr., Inc., No. 13 C 8316, 2014 WL
1884471, at *4 (N.D. Ill. May 12, 2014). The Act requires each facility to report any reasonable suspicion of a
crime against any individual who is a resident of, or is receiving care from, the facility. 42 U.S.C § 1320b-25(b).

1 filed by Plaintiff. (Decl. of John M. Feser, Jr. at ¶¶ 3, 4.) Defendants also assert that Plaintiff
2 does not mention the claim in his complaint, has not provided any evidence that the claim
3 exists, and fails to show how the purported elder abuse claim relates to this case.

4 **C. Discussion**

5 A conflict of interest refers to a situation when someone, such as a lawyer or public
6 official, has competing professional or personal obligations or personal or financial interests
7 that would make it difficult to fulfill his duties fairly.³ <http://www.lectlaw.com/def/c095.htm>.

8 District courts are well equipped to consider the particulars of a conflict of interest, along with
9 all the other facts and circumstances, to determine whether an abuse of discretion has occurred.

10 Saffon v. Wells Fargo & Co. Long Term Disability Plan, 522 F.3d 863, 868–69 (9th Cir. 2008)

11 After consideration of Plaintiff’s motion and Defendants’ opposition, the court finds no
12 evidence that a conflict of interest exists. Therefore, Plaintiff’s motion shall be denied.

13 **III. CONCLUSION**

14 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s motion to declare a
15 conflict of interest, filed on October 5, 2016, is DENIED.

16 IT IS SO ORDERED.

17 Dated: February 13, 2017

18 /s/ Gary S. Austin
19 UNITED STATES MAGISTRATE JUDGE

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³The court finds no well-defined legal standard for conflict-of-interest applicable here.