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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN MADRID,
Plaintiff,
v.
P. PEASE, et al.,
Defendants.

Case No. 1:15-cv-00770-LJO-BAM-PC
ORDER STAYING DEFENDANTS’
OBLIGATION TO RESPOND TO SECOND
AMENDED COMPLAINT UNTIL
FURTHER ORDER OF THE COURT

Plaintiff John Madrid is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 1, 2017, Defendants filed a motion to stay this case. (ECF No. 23.) Defendants assert that after Plaintiff’s state-court lawsuit concerning the same claims raised in this federal suit was dismissed as premature under California law, Plaintiff filed the instant lawsuit. Defendants further assert that this lawsuit arises from the same incident as Plaintiff’s state-court suit, and that he requests the same relief against the same Defendants. Defendants argue that Plaintiff filed his state-court lawsuit prematurely, warranting dismissal, and causing Defendants to incur unnecessary fees (\$13,010) and costs (\$546) in defending the lawsuit.

According to Defendants, Plaintiff still owes Defendants Burnes (\$2,575) and Thatcher (\$1,050) on judgments from small-claims lawsuits that they brought against him arising out of the incident at issue in this lawsuit. Defendants seek for the Court to order Plaintiff to pay the

1 \$546 in costs that Defendants incurred in defending the state-court lawsuit before allowing this
2 federal lawsuit to proceed. See Hacopian v. U.S. Dep't of Labor, 709 F.2d 1295, 1297 (9th Cir.
3 1983) (affirming court's inherent power to dismiss for nonpayment of costs in prior action).

4 Defendants also seek an order staying their requirement to answer Plaintiff's second
5 amended complaint in this case until their motion to stay the action pending the payment of costs
6 is decided. See Sorensen v. Head USA, Inc., No. 06-CV-1434-BTM-CAB, 2006 WL 6584166, at
7 *1 (S.D. Cal. Oct. 13, 2006) (citing Butler v. Judge of United States District Court, 116 F.2d
8 1013, 1015 (9th Cir. 1941)) (explaining that although a motion to stay is not a responsive
9 pleading, courts often consider them prior to the filing of an answer; denying motion for default).
10 The Court takes no position on the merits of Defendants' motion to stay the action pending the
11 payment of costs. However, the Court finds that judicial efficiencies and the interests of justice
12 are best served by considering the motion prior to the filing of an answer in this case.

13 Good cause appearing, it is HEREBY ORDERED that Defendants' obligation to file a
14 responsive pleading to the second amended complaint is STAYED. Defendants are relieved of
15 their obligation to file a responsive pleading until further order of the Court.

16 IT IS SO ORDERED.
17

18 Dated: September 11, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE