## 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 GUILLERMO TRUJILLO CRUZ, No. 1:17-cv-01474-DAD-BAM (PC); 12 Plaintiff, No. 1:18-cv-00990-LJO-EPG (PC) 13 v. ORDER CONSOLIDATING ACTIONS AND DESIGNATING 1:17-cv-01474-DAD-BAM 14 SAVOIE, et al., () AS THE LEAD CASE AND CLOSING 8-cv-00990-LJO-EPG (PC) Defendants. 15 16 (Doc. No. 23) 17 18 Plaintiff Guillermo Trujillo Cruz is a state prisoner proceeding pro se and in forma 19 pauperis in these civil rights actions pursuant to 42 U.S.C. § 1983. On November 2, 2017, 20 Plaintiff filed a complaint in the action entitled Guillermo Trujillo Cruz v. Savoie, 1:17-cv-01474-21 DAD-BAM (PC) ("Cruz"). On July 19, 2018, defendant Savoie removed an action to this court, 22 now entitled Guillermo Cruz Trujillo v. Savoie, 1:18-cv-00990-LJO-EPG (PC) ("Trujillo"), from 23 Kern County Superior Court. 24 On August 6, 2018, both Magistrate Judge Grosjean and Magistrate Judge McAuliffe 25 issued orders in their respective actions for the parties to show cause why the Cruz and Trujillo 26 actions should not be consolidated. (Trujillo, Doc. No. 4; Cruz, Doc. No. 18.) Plaintiff filed a

motion to consolidate in both actions. (Trujillo, Doc. No. 6; Cruz, Doc. No. 23.) Defendant

Savoie did not file a response in either action.

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The allegations in *Cruz* are as follows. Plaintiff, who was formerly housed at Kern Valley State Prison, brings suit against Correctional Officer Savoie. (*Cruz*, Doc. No. 1.) Plaintiff alleges that defendant Savoie filed a false Rule Violation Report against him on April 27, 2016, in retaliation for plaintiff filing a 602 inmate grievance against defendant Savoie for sexual misconduct on April 22, 2016. (*Id.*) The *Cruz* action has been screened and proceeds on plaintiff's first amended complaint against defendant Savoie for retaliation in violation of the First Amendment. (*Cruz*, Doc. No. 17.) Defendant Savoie has not yet been served.

The factual allegations in *Trujillo* appear to be similar, if not identical, to those set forth in *Cruz*. Defendant Savoie is the sole named defendant in the *Trujillo* action. As noted above, defendant Savoie removed the *Trujillo* action to this court from the Kern County Superior Court, and has therefore appeared in this action. The complaint has not yet been screened.

Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, "[i]f actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay." In exercising its discretion, the court "weighs the saving of time and effort consolidation would produce against any inconvenience, delay, or expense that it would cause." *Huene v. United States*, 743 F.2d 703, 704 (9th Cir. 1984).

Here, the two actions now pending before this court involve common questions of law and fact, both concerning the same allegations that defendant Savoie allegedly retaliated against plaintiff in April 2016. Unless the actions are consolidated, the court will be forced to duplicate its efforts for these two cases. If the cases proceed to trial, there is a possibility of inconsistent verdicts by different juries. Therefore, to aid in the efficient and economical disposition of these cases and to avoid inconsistent judgments, the court, in its discretion, orders that plaintiff's two pending actions be consolidated.

## Accordingly,

 Plaintiff's motion to consolidate (Doc. No. 23) is granted such that cases 1:17-cv-01474-DAD-BAM (PC) and 1:18-cv-00990-LJO-EPG (PC) shall be consolidated into a single case;

1	2.	The operative complaint in the	he consolidated action shall be deemed the first
2		amended complaint filed on	May 21, 2018 in 1:17-cv-01474-DAD-BAM (PC)
3		(Doc. No. 11);	
4	3.	The Clerk of the Court shall	docket this order in both cases; and
5	4.	The Clerk of the Court is dire	ected to close case 1:18-cv-00990-LJO-EPG (PC)
6	IT IS SO ORDERED.		
7	Dated:	October 15, 2018	Dale A. Drogd
8		<u> </u>	UNITED STATES DISTRICT JUDGE
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