

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

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

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

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

25 Accordingly,

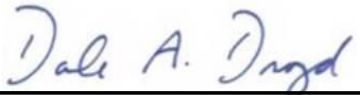
- 26 1. Plaintiff's motion to consolidate (Doc. No. 23) is granted such that cases 1:17-cv-
27 01474-DAD-BAM (PC) and 1:18-cv-00990-LJO-EPG (PC) shall be consolidated
28 into a single case;

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2. The operative complaint in the consolidated action shall be deemed the first amended complaint filed on May 21, 2018 in 1:17-cv-01474-DAD-BAM (PC), (Doc. No. 11);
3. The Clerk of the Court shall docket this order in both cases; and
4. The Clerk of the Court is directed to close case 1:18-cv-00990-LJO-EPG (PC).

IT IS SO ORDERED.

Dated: October 15, 2018


UNITED STATES DISTRICT JUDGE