

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SEAN DIAS,

Plaintiff,

v.

WILLIAM AVILA, et al.,

Defendants.

Case No. 1:24-cv-00354-KES-SAB

ORDER VACATING JANUARY 8, 2025
HEARING

On March 26, 2024, Defendants removed this action and soon thereafter moved to dismiss. (ECF Nos. 1, 4.) On May 7, 2024, the undersigned prepared findings and recommendations, recommending that the complaint be dismissed with leave to amend. (ECF No. 8.) The matter was then reassigned to a district judge to rule on the Court's findings and recommendations, which remains pending. (ECF No. 7.) Notwithstanding the pending findings and recommendations, on November 20, 2024, Defendants filed a subsequent motion to dismiss, arguing that Plaintiff had failed to file an amended complaint and that the complaint should be dismissed with prejudice. (ECF No. 11.) It appears that this motion is not ripe because the complaint has not yet been authorized.

In any event, Defendants have improperly set the subsequent motion to dismiss before the undersigned. As stated above, this matter has been reassigned to a district judge, and therefore, the motion to dismiss must be referred to the undersigned. L.R. 304(a); see 28 U.S.C. 636(b)(1).

1 Accordingly, the Court hereby VACATES the January 8, 2025 hearing on the second
2 motion to dismiss as improperly set before the magistrate judge.

3
4 IT IS SO ORDERED.

5 Dated: January 3, 2025



STANLEY A. BOONE
United States Magistrate Judge

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28