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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAY L. SELLERS,

Plaintiff,

No. CIV S-07-2368 JAM GGH PS

vs.

FINDINGS AND RECOMMENDATIONS

PINE TREE GARDENS, LEIGH,

Defendants.

_____ /

On May 17, 2013, plaintiff filed a request to vacate judgment, which will be construed as a motion under Fed. R. Civ. P. 60(b).

“A motion under Rule 60(b) must be made within a reasonable time - and for reasons (1) (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.” Fed. R. Civ. P. 60(c)(1).

The motion is difficult to decipher but appears to claim that either this court or the Ninth Circuit Court of Appeals fraudulently falsified records in plaintiff’s case. (Doc. no. 27 at 2.) Judgment was entered on March 13, 2008. Such a basis for relief under Rule 60(b)(3) for fraud must have been brought within one year of that date. Therefore, the motion will be denied as untimely, to the extent that it has not been rendered inoperative by plaintiff having filed an appeal with the Ninth Circuit, which was dismissed on March 18, 2009.

