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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARVIN GLENN HOLLIS,  
Plaintiff,  
v.  
G. BRACKETT, et al.,  
Defendants.

No. 2:08-cv-1091 JAM KJN P

FINDINGS & RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se. On October 5, 2011, judgment was entered in favor of defendant Brackett, and plaintiff was taxed costs. (ECF Nos. 109, 118.) On April 8, 2013, the undersigned settled the issue of costs in addition to plaintiff’s two other pending cases, including Hollis v. Gorby, No. 2:09-cv-1627 CKD P (E.D. Cal.).<sup>1</sup> (ECF No. 122.)

On July 30, 2018, plaintiff filed a motion for relief from judgment and for sanctions asserting that the terms of the settlement agreement were breached by officials at plaintiff’s prison when they applied the award of costs in the instant action to plaintiff’s trust account balance. Plaintiff seeks reimbursement of \$27.00 for costs in preparing documents and postage fees, as well as sanctions in the amount of \$1,000.00. (ECF No. 124 at 4.)

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<sup>1</sup> A court may take judicial notice of court records. See, e.g., Bennett v. Medtronic, Inc., 285 F.3d 801, 803 n.2 (9th Cir. 2002) (“[W]e may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue”) (internal quotation omitted).

1 On July 20, 2018, plaintiff filed a similar motion in No. 2:09-cv-1627 CKD P, and  
2 defendants filed an opposition, and plaintiff filed a reply. Id. On October 30, 2018, the  
3 magistrate judge denied plaintiff's motion, finding as follows:

4 Defendants admit that the amount awarded for costs in Hollis v.  
5 Gorby was applied to plaintiff's trust account, but that it was done so  
6 in error and has now been removed. Defendants point to evidence  
7 indicating the deduction for costs has been removed.

8 Plaintiff agrees that the deduction for costs has now been removed  
9 from his trust account. However, plaintiff asks that unidentified  
10 "prison officials" be sanctioned for their failure to adjust plaintiff's  
11 trust account balance when they were informed by plaintiff that the  
12 settlement agreement in this action precludes a deduction for costs  
13 awarded in Hollis v. Gorby. Plaintiff fails to point to any authority  
14 in support of his request and the court notes there is no evidence  
15 before the court that any defendant or counsel for defendants caused  
16 the improper deduction, or failed to act with diligence in having the  
17 deduction removed once they became aware of it.

18 No. 2:09-cv-1627 CKD P (ECF No. 190 at 1-2). Indeed, as defendants' opposition confirmed,  
19 the bill of costs was deducted in error and was not due to any action or inaction of the individual  
20 defendants or their counsel, and has now been removed. Id. (ECF Nos. 188 at 3, 188-1 at 2, 5-6.)

21 Accordingly, for the reasons set forth in the October 30, 2018 order issued in No. 2:09-cv-  
22 1627 CKD P, IT IS HEREBY RECOMMENDED that plaintiff's motion for relief from judgment  
23 and for sanctions (ECF No. 124) be denied.

24 These findings and recommendations are submitted to the United States District Judge  
25 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
26 after being served with these findings and recommendations, any party may file written  
27 objections with the court and serve a copy on all parties. Such a document should be captioned  
28 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
objections shall be served and filed within fourteen days after service of the objections. The

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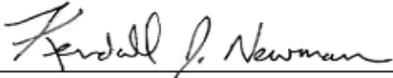
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1 parties are advised that failure to file objections within the specified time may waive the right to  
2 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: November 6, 2018

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6 KENDALL J. NEWMAN  
7 UNITED STATES MAGISTRATE JUDGE

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