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

JAMES OLIVER,

Plaintiff,

No. 2:08-cv-2524 LKK GGH P

vs.

SCOTT CHESSER,

Defendant.

ORDER

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On September 27, 2012, this court entered an order which: (1) denied plaintiff's motion for summary judgment; (2) granted in part and denied in part defendant's motion for judgment on the pleadings; and (3) advised the parties that it would schedule a trial on the remaining issues in the action. See ECF No. 59.

On October 22, 2012, plaintiff filed a notice of appeal of the court's September 27, 2012 order, and now seeks a stay pending appeal. See ECF No. 63. .


Jurisdiction

On November 9, 2012, the Ninth Circuit dismissed the appeal for lack of jurisdiction, because the challenged order was not final or appealable. (ECF No. 65.) The Ninth Circuit's order took effect on December 4, 2012. (ECF No. 67.)

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1                   Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for a stay  
2 pending appeal (ECF No. 63) is denied as moot.

3 DATED: January 23, 2013.

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7                   LAWRENCE K. KARLTON  
8                   SENIOR JUDGE  
9                   UNITED STATES DISTRICT COURT  
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