

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

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

MARIO WILLIAMS,
Plaintiff, No. 2:11-cv-0638 GEB KJN P
vs.
JASON T. HUFFMAN, et al.,
Defendants. ORDER

_____/

Plaintiff is a prison inmate, proceeding without counsel or “pro se” and in forma pauperis, with a civil rights action. On December 14, 2011, plaintiff filed his third request for the appointment of counsel. Plaintiff’s previous requests were filed on June 13, 2011, and October 3, 2011. All requests were denied. In light of those orders and for the reasons stated therein, plaintiff’s third request is denied.

On December 19, 2011, plaintiff filed a request for entry of default as to defendant Huffman. However, defendant Huffman was personally served on December 2, 2011, and timely filed a motion to dismiss on December 22, 2011. Plaintiff’s request is denied.

On December 9, 2011, plaintiff filed a document entitled “Motion for Trial by Jury.” (Dkt. No. 42.) Plaintiff included a request for jury trial in his complaint; therefore, no further motion or request for jury trial is required. Once dispositive motions are resolved, the

1 court will set the matter for jury trial, if appropriate.

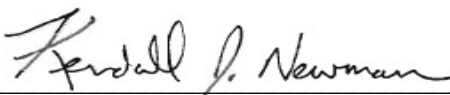
2 On December 9, 2011, plaintiff also filed a document styled, "Motion of New
3 Evidence." (Dkt. No. 43.) In this document, plaintiff discusses defendants' treatment of
4 plaintiff's back problems, and alleges that they delayed providing appropriate treatment,
5 subjecting plaintiff to "back spasms and extreme pain." (Dkt. No. 43 at 3.) The purpose of
6 plaintiff's filing is unclear. At the time of this filing, no dispositive motion was pending, and the
7 court did not ask plaintiff to file such a document. Thus, the court disregards this filing. Plaintiff
8 is advised that he need not present evidence unless it is submitted in conjunction with a
9 dispositive motion, an opposition to a dispositive motion, or at trial.

10 The court notes, however, that plaintiff has filed several unrelated matters in this
11 case within the last month. Plaintiff is cautioned to exercise restraint when considering whether
12 to file further motions in this action. A litigant proceeding in forma pauperis may suffer
13 restricted access to the court where it is determined that he has filed excessive motions in a
14 pending action that unnecessarily taxes judicial resources. See e.g. DeLong v. Hennessey, 912
15 F.2d 1144 (9th Cir. 1990); see also Tripathi v. Beaman, 878 F2d 351, 352 (10th Cir. 1989).

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Plaintiff's December 14, 2011 motion for appointment of counsel (dkt. no. 46)
18 is denied;
- 19 2. Plaintiff's December 19, 2011 request for entry of default (dkt. no. 48) is
20 denied;
- 21 3. Plaintiff's December 9, 2011 motion for jury trial (dkt. no. 42) is disregarded;
22 and
- 23 4. Plaintiff's December 9, 2011 motion (dkt. no. 43) is disregarded.

24 DATED: December 23, 2011

25 
26 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE