

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

HOWARD ALAN ZOCHLINSKI,

Plaintiff,

No. CIV 2:11-cv-3295-KJM-JFM (PS)

vs.

BLUM, *et al.*,

Defendants.

ORDER

\_\_\_\_\_ /

This matter, initially filed in the Yolo County Superior Court on June 28, 2010, was removed to this court on December 12, 2011 and assigned case number 2:11-cv-3295-MCE-CKD. On December 19, 2011, defendants filed a motion to dismiss, which was scheduled to be heard before Magistrate Judge Carolyn K. Delaney on January 25, 2012. On December 21, 2011, defendants filed a Notice of Related Case seeking to relate the instant case to 2:10-cv-1824-KJM-JFM. Upon review of the two cases, this matter was reassigned to the Honorable Kimberly J. Mueller and the undersigned on January 5, 2012 consistent with Local Rule 123(a). Thereafter, defendants re-noticed their motion to dismiss before the undersigned and set the matter for hearing on February 16, 2012. On January 11, 2012, plaintiff filed a motion to remand, also set for hearing on February 16, 2012.

////

1 Pending before the court are plaintiff's two motions for an extension of time to  
2 file an opposition to defendants' motion to dismiss. Doc. Nos. 12 and 15. Plaintiff asserts an  
3 extension of time, up to and including March 29, 2012, is necessary because of his ailing health,  
4 to conduct "the huge amount of research needed" to formulate a response to defendants' motion  
5 and to allow the court time to consider his pending motion to remand. The court is unconvinced.  
6 Despite his ailing health, plaintiff has been able to submit an 87-page motion to remand, has  
7 been aware of the facts underlying this action for a number of years and is not unfamiliar with  
8 the arguments that defendants present in their motion to dismiss. Additionally, the court is not  
9 inclined to consider his motion to remand prior to considering defendants' motion to dismiss,  
10 and, as of the date of this order, plaintiff has already had nearly forty-five days to prepare an  
11 opposition to the motion to dismiss.<sup>1</sup>

12 Furthermore, the court has determined that both matters shall be submitted upon  
13 the record and briefs on file and accordingly, the date for hearing on defendants' motion to  
14 dismiss and plaintiff's motion to remand shall be vacated. Local Rule 230.

15 Accordingly, IT IS HEREBY ORDERED that:

16 1. Plaintiff's January 11, 2012 and February 2, 2012 motions for an extension of  
17 time are partially granted;

18 2. Plaintiff shall file an opposition or statement of non-opposition to defendants'  
19 motion to dismiss on or before February 23, 2012. Defendants' reply, if any, shall be filed seven  
20 days thereafter. The parties are hereby notified that, absent extraordinary circumstances, the  
21 court will not modify this briefing schedule; and

22 ////

23 ////

24 ////

---

25  
26 <sup>1</sup> Defendants first filed their motion to dismiss on December 19, 2011. See Doc. No. 6.

3. The February 16, 2012 hearing is dropped from calendar.

DATED: February 9, 2012.



UNITED STATES MAGISTRATE JUDGE

/014;zoch3295.eot

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