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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN MCCLINTOCK,
Plaintiff,
v.
COLOSIMO, et al.,
Defendants.

No. 2:13-cv-0264 TLN DAD P

ORDER

On October 28, 2014, this court denied as moot plaintiff's motion to stay these proceedings pending his interlocutory appeal because the Ninth Circuit had dismissed that appeal for lack of jurisdiction. Shortly thereafter, plaintiff filed the motion for reconsideration now pending before this court. In the motion, plaintiff contends that he timely filed a motion for reconsideration with the Ninth Circuit Court of Appeals.

The court will deny plaintiff's pending motion for reconsideration as also having been rendered moot. On January 6, 2015, the Ninth Circuit denied plaintiff's motion for reconsideration filed in that court. In addition, the Ninth Circuit informed plaintiff that it would not entertain any further filings from him in that closed case.

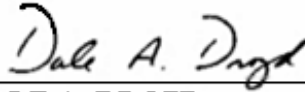
Finally, once more the court will order plaintiff to file an opposition to defendants' pending motion for summary judgment based on plaintiff's alleged failure to exhaust administrative remedies prior to filing suit as required. The court will not tolerate further delay in

1 this regard and plaintiff is forewarned that any failure on his part to file an opposition to
2 defendants' motion for summary judgment in compliance with this order will result in a
3 recommendation that this action be dismissed.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Plaintiff's motion for reconsideration (Doc. No. 44) is denied as moot; and
- 6 2. Within twenty-one days of the date of service of this order plaintiff shall file an
7 opposition to defendants' pending motion for summary judgment. Plaintiff's failure to file an
8 opposition will be deemed as a statement of non-opposition and shall result in a recommendation
9 that this action be dismissed pursuant Federal Rule of Civil Procedure 41(b).

10 Dated: January 8, 2015

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12 _____
13 DALE A. DROZD
14 UNITED STATES MAGISTRATE JUDGE

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