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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HENRY A. JONES,
Plaintiff,
v.
P. KUPPINGER, et al.,
Defendants.

No. 2:13-cv-0451 WBS AC P

ORDER

By order filed February 10, 2016, attorney M. Greg Mullanax was appointed to represent plaintiff for the limited purpose of preparing for and participating in a mandatory settlement conference in this action. The settlement conference was held on May 4, 2016, before United States Magistrate Judge Jennifer L. Thurston. The case did not settle. Mr. Mullanax has confirmed that he is no longer available to represent plaintiff. Accordingly, Mr. Mullanax's appointment will terminate with the filing of this order.

The court has carefully considered whether appointment of alternate counsel is warranted in this action. The court has reviewed the undersigned's prior order authorizing the limited appointment of counsel, see ECF No. 72, and considered plaintiff's demonstrated ability to be an active participant at the settlement conference and to articulate his claims pro se. The court also notes that plaintiff has recently commenced a new action in this court, which includes a typed

1 complaint 14 pages in length and more than 100 pages of exhibits. See Jones v. Pregerson et al.,
2 Case No. 2:16-cv-0381 KJN P (E.D. Cal.), filed February 22, 2016. While it appears that the
3 complaint was prepared by another inmate, it is clear that plaintiff is sufficiently confident to
4 proceed pro se in yet another case filed in this court (since 2010, plaintiff has filed seven cases in
5 this court). These considerations, together with the limited availability of volunteer counsel,
6 support the conclusion that further appointment of counsel in this action is not warranted at the
7 present time. See Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (plaintiff bears the burden
8 of demonstrating exceptional circumstances warranting the appointment of counsel, including an
9 inability to proceed pro se and a likelihood of success on the merits of his claims).

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. Effective upon the filing date of this order, Mr. Mullanax is relieved of his appointment
12 to represent plaintiff in this action.


13 2. Appointment of alternate counsel for plaintiff is not warranted at the present time.

14 3. Within twenty-one days after service of this order, plaintiff and defense counsel shall
15 file separate status reports that inform the court of the following: (a) Is any further discovery
16 warranted in this action? (b) If so, specifically identify the intended discovery, explain its
17 relevance and importance, and explain why the proposed discovery was not propounded prior to
18 the extended discovery deadline of November 20, 2015.

19 Upon review of the parties' separate status reports, the court will set deadlines for filing
20 dispositive motions and, if appropriate, further discovery.

21 SO ORDERED.

22 DATED: May 10, 2016

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24 ALLISON CLAIRE
25 UNITED STATES MAGISTRATE JUDGE
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