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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 ROBERT BENYAMINI,

12 Plaintiff,

13 v.

14 M. SWETT, et al.,

15 Defendants.  
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No. 2:13-cv-0735-KJM-EFB P

ORDER

17 Plaintiff is a former state prisoner proceeding without counsel in an action brought under  
18 42 U.S.C. § 1983. He alleges that, on May 6, 2009, defendants Swett, Miranda, Carpenter, Perry,  
19 and Roth violated his Eighth Amendment rights by using excessive force against him. ECF Nos.  
20 1, 8. Plaintiff moves to declare defendants vexatious. ECF No. 79. For the reasons that follow,  
21 his motion is denied.

22 Plaintiff's twenty-two page motion generally alleges that defendants have "over-litigated"  
23 this action, thereby forcing him to spend a disproportionate amount of time researching and  
24 drafting responses to their motions. ECF No. 79 at 7-8. As defendants correctly point out,  
25 vexatious litigant statutes allow for a defendant to petition the court to order a plaintiff to furnish  
26 security upon a showing that he is a vexatious litigant and there is no reasonable probability that  
27 he will prevail in the litigation, not the other way around. Cal. Civ. Proc. Code § 391.1. While  
28 other remedies exist to address vexatious or meritless filings by a defendant, the court has

1 reviewed the defendants' pleadings in this action and finds no evidence or indication that any  
2 were frivolous or submitted in bad faith. Plaintiff's repeated references to his pro se status and  
3 lack of legal knowledge are also unpersuasive. While courts generally apply more lenient  
4 standards to pro se claimants, that leniency does not preclude opposing parties from mounting a  
5 vigorous defense to the allegations levied against them. Finally, plaintiff's claims that the effort  
6 of prosecuting this litigation has prevented him from improving his education and employment  
7 prospects are also unavailing. It was plaintiff's decision to bring this action and it is his decision  
8 to continue prosecuting it. His desire to pursue other projects and priorities should not constrain  
9 defendants' litigation of their defenses .

10 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to declare defendants  
11 vexatious (ECF No. 79) is DENIED.

12 DATED: August 1, 2016.

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14 EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE