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

MICHAEL A. LEON,

Plaintiff,

No. 2:13-cv-0838 MCE KJN PS

vs.

PACIFIC SCIENTIFIC ENERGETIC
MATERIALS COMPANY/PACIFIC
SCIENTIFIC,

Defendant.

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff Michael A. Leon, a resident of Arizona, who is proceeding without counsel, filed this action on April 29, 2013, alleging claims for intentional infliction of emotional distress, negligent infliction of emotional distress, libel and slander (defamation), and invasion of privacy/false light against defendant Pacific Scientific Energetic Materials Company/Pacific Scientific, a California entity, and other Doe defendants. (Dkt. No. 1.)¹ The complaint purportedly invokes the court’s diversity jurisdiction pursuant to 28 U.S.C. § 1332. (Id.) Plaintiff also filed an application to proceed without prepayment of fees, or in forma pauperis. (Dkt. No. 2). Thereafter, on May 6, 2013, plaintiff filed motions for service by certified mail and for permission to e-file. (Dkt. Nos. 3, 4.)

¹ This case was referred to the undersigned pursuant to E.D. Cal. L.R. 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 Plaintiff's application in support of his request to proceed in forma pauperis
2 makes the showing required by 28 U.S.C. § 1915(a)(1). Accordingly, the undersigned grants
3 plaintiff's request to proceed in forma pauperis.

4 The determination that a plaintiff may proceed in forma pauperis does not
5 complete the required inquiry. Pursuant to 28 U.S.C. § 1915(e)(2), the court is directed to
6 dismiss the case at any time if it determines that the allegation of poverty is untrue, or if the
7 action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks
8 monetary relief against an immune defendant.

9 Although plaintiff's complaint is somewhat confusing and replete with religious
10 quotes and references, plaintiff, whose career has ostensibly been in electronics aerospace,
11 alleges that in January and February 2013, an individual named Fiona Greig, associated with
12 either Boeing and/or Securaplane, falsely stated that plaintiff was a convicted felon, that he was
13 fired for "internet usage e-mail," and that he set up certain faulty test setups. (See Dkt. No. 1.)
14 Plaintiff claims that he suffered loss of his reputation, shame, mortification, emotional distress,
15 and other harm as a result of these false statements. (Id.) As noted above, plaintiff asserts claims
16 for intentional infliction of emotional distress, negligent infliction of emotional distress, libel and
17 slander (defamation), and invasion of privacy/false light against defendant Pacific Scientific
18 Energetic Materials Company/Pacific Scientific. (Id.) It is unclear exactly what the named
19 defendant Pacific Scientific's connection with these allegations are.

20 Regardless, a review of the court's records reveals that the above-mentioned
21 allegations are virtually identical to those contained in plaintiff's complaint filed in this court's
22 Fresno division on February 25, 2013, in United States of America, ex rel. Michael A. Leon v.
23 Meggitt PLC, et al., 1:13-cv-270-LJO-MJS, Dkt. No. 1. Although the earlier case involves
24 additional claims and defendants, it includes the same claims against defendant Pacific Scientific
25 Energetic Materials Company/Pacific Scientific that are asserted in this case, which in turn are
26 based on the same factual allegations that are asserted in this case. This action is therefore

1 duplicative of plaintiff's previously-filed action, and the court thus recommends that the action
2 be dismissed on that basis. The court further recommends that plaintiff's remaining pending
3 motions in this case be denied as moot.

4 For the foregoing reasons, IT IS HEREBY ORDERED that plaintiff's request to
5 proceed in forma pauperis (dkt. no. 2) is GRANTED.

6 IT IS ALSO HEREBY RECOMMENDED that:

- 7 1. The action be DISMISSED as duplicative.
- 8 2. Plaintiff's motions for service by certified mail and for permission to e-file
9 (dkt. nos. 3, 4) be DENIED AS MOOT.
- 10 3. The Clerk of Court be directed to close this case and vacate all dates.

11 These findings and recommendations are submitted to the United States District
12 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
13 (14) days after being served with these findings and recommendations, any party may file written
14 objections with the court and serve a copy on all parties. Such a document should be captioned
15 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
16 shall be served on all parties and filed with the court within fourteen (14) days after service of the
17 objections. The parties are advised that failure to file objections within the specified time may
18 waive the right to appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th
19 Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

20 IT IS SO ORDERED AND RECOMMENDED.

21 DATED: May 13, 2013

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23 _____
24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE
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