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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN PATRICK WINKLEMAN,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION et al.,

Defendants.

No. 2:13-cv-1480 MCE CKD P (TEMP)

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed a motion to dismiss this action. In light of defendants’ pending motion for summary judgment, the court will direct defendants to file an opposition or a statement of non-opposition to plaintiff’s motion. If defendants file an opposition to plaintiff’s request, defense counsel is directed to include therein an explanation as to how defendants would suffer any “plain legal prejudice” if this court dismissed this action without prejudice. See Smith v. Lenches, 263 F.3d 972, 975-76 (9th Cir. 2001); Westlands Water Dist. v. United States, 100 F.3d 94, 96-97 (9th Cir. 1996) (the threat of future litigation, uncertainty because the dispute remains unresolved, and the expense incurred in defending against the lawsuit do not constitute legal prejudice).

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Accordingly, IT IS HEREBY ORDERED that within fourteen days of the date of this order, defendants shall file a response to plaintiff's motion to dismiss this action.

Dated: December 9, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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