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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRIEN EDWARD SMITH,
Plaintiff,
v.
LOWE’S HIW, INC.,
Defendant.

No. 2:13-cv-01713-WBS-AC

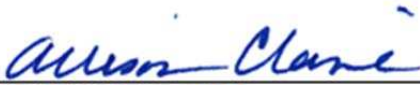
ORDER TO SHOW CAUSE

Plaintiff is proceeding in this action in pro per. On August 20, 2013, defendant removed this case from Amador County Superior Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. ECF No. 1. On August 27, 2013, defendant filed a motion to dismiss on the grounds that plaintiff’s complaint failed to state a claim for relief. ECF No. 6. On September 24, 2013, defendant filed a motion to strike plaintiff’s slander, libel, and negligent infliction of emotional distress claims. ECF No. 10. On October 28, 2013, plaintiff filed a motion to amend his complaint, which the court granted. ECF Nos. 12, 13. On January 16, 2014, plaintiff filed an amended complaint. ECF No. 15. On January 30, 2014, defendant filed both a motion to dismiss plaintiff’s amended complaint and a motion to strike plaintiff’s claims for slander, libel, and negligent infliction of emotional distress. ECF Nos. 18, 19. Defendant’s motion to dismiss was granted and its motion to strike denied as moot by the district judge in light of the undersigned’s recommendation on May 13, 2014. ECF No. 33.

1 On June 2, 2014, plaintiff filed his second amended complaint. ECF No. 34. On June 16,
2 2014, defendant filed a motion to dismiss plaintiff's second amended complaint. ECF No. 35.
3 Defendant's motion to dismiss was granted by the district judge in light of the undersigned's
4 recommendation on October 24, 2014. ECF No. 42. On October 27, 2014, the undersigned
5 ordered plaintiff to file a third amended complaint by November 26, 2014, if at all. ECF No. 43.
6 Plaintiff has yet to file a third amended complaint.

7 Accordingly, IT IS HEREBY ORDERED that plaintiff shall show cause in writing within
8 fourteen (14) days of the date of this order why this action should not be dismissed pursuant to
9 Federal Rule of Civil Procedure 41(b) for failure to prosecute.

10 DATED: December 3, 2014

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13 ALLISON CLAIRE
14 UNITED STATES MAGISTRATE JUDGE
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