

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PETER T. HARRELL,

Plaintiff,

v.

HORNBROOK COMMUNITY SERVICES DISTRICT, MICHELLE HANSON, PATRICIA BROWN, SHARREL BARNES, ROBERT WINSTON, JULIE BOWLES, CLINT DINGMAN, ERNEST GOFF, ROGER GIFFORD, ROBERT PUCKETT, SR., HORNBROOK COMMUNITY BIBLE CHURCH, STEVEN CRITTENDEN, MURPHY PEARSON BRADLEY AND FEENEY, BRADLEY & FEENEY, INC., BASIC LABORATORY, INC., DUKE MARTIN, KISHER, WINTON & BOSTON, and Does 1-20,

Respondents.

No. 2:14-cv-1595 KJM GGH

ORDER

PROCEDURAL BACKGROUND

This case was filed by Plaintiff on July 7, 2014. ECF No. 1. Plaintiff was granted In Forma Pauperis status on August 6, 2014, ECF No. 3, and has been acting in this matter *pro se*. Since that date the following matters have been calendared for hearing by the court:

1 1. 8/21/14 Plaintiff's Motion to Amend the Complaint. That ECF No. 6. Motion
2 was denied without prejudice to its refiling if accompanied by the proposed Amended Complaint,
3 on 8/29/14. ECF No. 7.

4 2. 10/9/14 An Order to Show Cause was issued by the court directing plaintiff to
5 show cause why the complaint should not be dismissed for failure to serve the named defendants.
6 ECF No. 8.

7 3. 10/30/14 Plaintiff responded to the Order by filing a Motion to Amend
8 accompanied by his proposed First Amended Complaint. ECF No. 9.

9 4. 12/5/14 The Order to Show Cause issued on 10/9/14 was discharged, and
10 Plaintiff's Motion to Amend was denied. The Clerk was directed to issue summonses on
11 defendants named in the Order and the U.S. Marshal was directed to serve said summonses within
12 90 days. ECF No. 11.

13 5. 2/23/15 Defendant Robert Winston moved to dismiss the complaint and strike state
14 law claims. A hearing on the motion was set for 4/16/15. ECF No. 14.

15 6. 3/25/15 Plaintiff moved for a 45 day extension of time to respond to the pending
16 motion. ECF No. 18.

17 7. 4/1/15 The court granted the plaintiff's motion and vacated its calendar stating that
18 the Motion would be recalendared if necessary after briefing was completed. ECF No. 20.

19 8. 4/22/15 Defendants Barnes, Bowles, Brown, Dingman, Goff, Hanson, and
20 Hornbrook Community Services District sought an extension of time to respond to the First
21 Amended Complaint. ECF No. 23.

22 9. 4/24/15 The defendants were granted an extension of time to respond making their
23 response due on May 22, 2015. ECF No. 24.

24 10. 4/28/15 Plaintiff requested Entry of Default against defendants Barnes, Bowles,
25 Brown, Dingman, Hanson and Hornbrook Community Services District, filed his Opposition to
26 the Motion to Dismiss and to Strike, objected to the extension of time to respond granted to
27 defendants on 4/24/15. ECF No. 27.

28 ///

1 11. 5/8/15 The court ordered newly served defendants to pay the United States
2 Marshal \$316 each as the cost of service unless they could each individually show good cause for
3 failing to waive personal service. ECF No. 32.

4 12. 5/8/15 Defendant Robert Winston filed a Reply Memorandum relating to the
5 pending Motion to Dismiss and to Strike. ECF No. 33.

6 13. 5/22/15 the court issued an order that the pending Motion would be heard on
7 8/6/15.

8 14. 5/22/15 The defendants responded to the courts 5/8/15 order to pay costs of service
9 by showing they were exempt as a public agency and officials of that agency sued in their official
10 capacities. ECF No. 34.

11 15. 5/29/15 Plaintiff formally objected to defendants responses re personal service.
12 ECF No. 37.

13 16. 6/2/15 Plaintiff sought an Order permitting initiation of written discovery. ECF
14 No. 37.

15 17. 6/4/15 Defendant Robert Winston filed Opposition to ECF No. 37.

16 18. 6/12/15 The other served defendants joined in the Opposition of Robert Winston.
17 ECF No. 40.

18 19. 6/19/15 Plaintiff filed his Reply re ECF No. 37. ECF No. 41.

19 20. 7/13/15 Plaintiff moved for a 30 day extension of time to respond to the Motion to
20 Dismiss. ECF No. 42.

21 21. 7/22/15 The court issued an Order granting Plaintiff until 8/13/15 to Oppose the
22 Motion to Dismiss, directed defendants to reply by 8/20/15, vacated its calendar of the hearing
23 scheduled for 8/20/15 and submitted the Motion without oral argument. ECF No. 43.

24 22. 8/12/15 Plaintiff Opposed the defendants' Motion to Strike. ECF No. 48.

25 23. 8/20/15 Defendants Replied to plaintiffs' Opposition. ECF NO. 49.

26 24. 9/10/15 The court issued Findings and Recommendations denying plaintiff's
27 motion for early discovery, denying his motion to amend the complaint, denying the U.S.
28 Marshal's request for reimbursement of service fees, granted in part and denied in part the

1 defendants' Motion to Dismiss and referred the matter to District Judge Kimberly J. Mueller with
2 objections due in 14 days.

3 25. 9/10/15 to 9/24/15 All parties filed Objections to the Findings and
4 Recommendations. ECF Nos. 51-54.

5 26. 3/22/16 District Judge Mueller issued an order granting defendant Winston's
6 Motion to dismiss section 1983 claims with leave to amend as to all defendants, denied
7 defendants' motions to strike plaintiff's state law claims (anti-SLAPP motions ECF Nos. 14, 35)
8 without prejudice to renewal by a separate motion after the Second Amended Complaint was
9 filed. ECF No. 55.

10 27. 4/22/16 Plaintiff moved for a 30 day extension of time to file a Second Amended
11 Complaint. ECF No. 57.

12 28. 3/28/16 This court granted Plaintiff 30 days to file the Second Amended
13 Complaint. ECF No. 58.

14 29. 5/31/16 Plaintiff filed his Second Amended Complaint. ECF No. 59.

15 30. 6/9/16 The court ordered that defendants were to file a responsive pleading to the
16 Second Amended Complaint 20 days from the date of the Order. ECF No. 64.

17 31. 6/29/16 Defendants Robert Winston, Hornbrook Community Services District, and
18 Murphy Pearson filed Motions to Dismiss, ECF Nos. 66, 68 and 69, and Robert Wilson and
19 Murphy Pearson filed Motions to Strike, ECF No. 67, 70, all set for hearing on August 4, 2016.

20 32. 7/12/16 Plaintiff filed a Motion for Preliminary Injunction and Request for
21 Appointment of a Receiver to be heard on the 8/4/16 hearing date. ECF No. 71.

22 33. 7/19/16 Plaintiff sought to Stay all proceedings on Rule 12(b) and SLAPP motions
23 pending service on and appearance of additional Doe defendants. ECF No. 75.

24 34. 7/21/16 Defendants Hornbrook Community Services District, Hanson, Brown,
25 Barnes, Bowles, Goff and Dingman filed a joint Opposition to plaintiff's Motion (ECF No. 71).
26 ECF No. 77.

27 35. 7/22/16 Defendant Dingman filed a separate Opposition to Plaintiff's Motion to
28 Stay. ECF No. 82.

1 motion shall first obtain the permission of the court to file such motion by making a request
2 detailing the need for it which shall be responded to by the opposing side in five court days from
3 receipt of the request either electronically or by paper service, whichever is later. The court will
4 then act expeditiously to resolve the request to file the emergency motion. The parties are
5 cautioned that abuse of this emergency motion procedure shall result in sanctions.

6 For the foregoing reasons, it is ordered as followed:

7 1. The Clerk shall vacate the court's September 22, 2016 hearing on the Motions
8 pending in this case;

9 2. No further filings will be accepted from any party unless in conformity to the
10 emergency motion procedure outlined herein;

11 3. All pending matters are under submission to await a formal ruling from the court.

12 **IT IS SO ORDERED.**

13 Dated: August 1, 2016

14 /s/ Gregory G. Hollows
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28