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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD J. CRANE,  
Plaintiff,  
v.  
RODRIGUEZ, et al.,  
Defendants.

No. 2: 15-cv-0208 TLN KJN P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are plaintiff’s motions for clarification and for extension of time to file a reply to defendants’ opposition to plaintiff’s motion for clarification. (ECF No. 325, 329.) Also pending is the request for sanctions filed by defendants Barton, etc. (ECF Nos. 327.)

For the reasons stated herein, plaintiff’s motions for clarification and for extension of time are denied, and the undersigned recommends that defendants’ motion for sanctions be denied.

Plaintiff’s Motion for Extension of Time (ECF No. 329)

In the opposition to plaintiff’s motion for clarification, defendants request that plaintiff be sanctioned. (ECF No. 327.) Plaintiff requests an extension of time to file a reply/response to defendants’ opposition/request for sanctions. (ECF No. 329.)

1 The undersigned finds that a reply/response by plaintiff to defendants' opposition/request  
2 for sanctions is not required. Accordingly, plaintiff's motion for extension of time is denied.

3 Motion for Clarification (ECF No. 325)

4 In the motion for clarification, plaintiff claims that on July 27, 2022, the Attorney  
5 General's Office removed a related case from state court, i.e., case 1:22-cv-0922 ADA HBK P, in  
6 which they waived administrative exhaustion as an affirmative defense. (ECF No. 325 at 2.)  
7 Plaintiff appears to claim that he brought this matter to the court's attention in a request for  
8 judicial notice filed in the instant action on November 1, 2022. (Id. at 3.) Plaintiff also argues  
9 that defendants improperly removed case 22-cv-0922 from state court. (Id. at 5-12.) Further,  
10 plaintiff argues that collateral estoppel does not apply to one of the defendants named in case 22-  
11 cv-0922, i.e., defendant Lopez. (Id. at 13-14.)

12 The arguments raised in plaintiff's motion for clarification do not concern the instant  
13 action. Accordingly, plaintiff's motion for clarification is denied.<sup>1</sup>

14 Defendants' Request for Sanctions (ECF No. 327)

15 In the opposition to plaintiff's motion for clarification, defendants move for sanctions  
16 against plaintiff on the grounds that plaintiff repeatedly engaged in inappropriate conduct in this  
17 case, resulting in the court admonishing him and awarding costs to defendants. (ECF No. 327 at  
18 2.) Defendants contend that the court previously sanctioned plaintiff, ordering that he "shall file  
19 no additional motions or requests that are unrelated to pending motions for summary judgment  
20 until the court has ruled on the pending motions." (Id., citing ECF No. 266 at pp. 4-5.)  
21 Defendants contend that plaintiff violated that order once without consequences, and violated that  
22 order again when he filed his current motion for clarification. (Id.) Defendants contend that  
23 plaintiff's actions are abusive, waste defense counsel and the court's time, and violate the court's

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24  
25 <sup>1</sup> On January 5, 2023, the undersigned recommended that defendants Barton, etc. be granted  
26 summary judgment as to plaintiff's claim regarding the January 16, 2013 incident based on  
27 plaintiff's failure to exhaust administrative remedies. (ECF No. 322.) In an abundance of  
28 caution, the undersigned reviewed plaintiff's request for judicial notice filed November 1, 2022,  
and finds that it contains no evidence demonstrating that defendants waived administrative  
exhaustion as an affirmative defense to the claims raised in the instant action. (See ECF No.  
264.)

1 prior order. (Id.) For these reasons, defendants request that this action be dismissed as a sanction  
2 against plaintiff. (Id.)

3 Federal courts have the inherent authority to sanction conduct abusive of the judicial  
4 process. See Chambers v. NASCO, Inc., 501 U.S. 32, 43–45 (1991). In determining whether to  
5 dismiss an action as a sanction, the court must weigh “(1) the public’s interest in expeditious  
6 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the  
7 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
8 availability of less drastic sanctions.” In re Phenylpropanolamine (PPA) Prods. Liab. Litig., 460  
9 F.3d 1217, 1226 (9th Cir. 2006).

10 The undersigned agrees with defendants that plaintiff filed numerous frivolous pleadings  
11 in this action, including the pending motion for clarification, that delayed expeditious resolution  
12 of this action and impeded the court’s ability to manage its docket. The undersigned also finds  
13 that plaintiff’s frivolous pleadings prejudiced defendants. Therefore, to alleviate additional  
14 prejudice to defendants, the undersigned orders that no defendant is required to respond to any  
15 pleading filed by plaintiff unless ordered by the court. The availability of this less drastic  
16 sanction, as well as the public policy favoring disposition of cases on their merits, outweigh the  
17 other factors favoring dismissal. For these reasons, defendants’ request to dismiss this action as a  
18 sanction should be denied.

19 Plaintiff is cautioned that if he continues to file frivolous pleadings, the undersigned will  
20 impose additional sanctions, including potentially dismissal of this action.

21 Accordingly, IT IS HEREBY ORDERED:

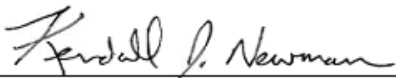
- 22 1. Plaintiff’s motion for extension of time (ECF No. 329) is denied;
- 23 2. Plaintiff’s request for clarification (ECF No. 325) is denied;
- 24 3. No defendant is required to respond to any pleading filed by plaintiff following the  
25 filing of this order unless ordered by the court; and

26 IT IS HEREBY RECOMMENDED that defendants’ request to dismiss this action as a  
27 sanction (ECF No. 327) be denied.

28 ///

1           These findings and recommendations are submitted to the United States District Judge  
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
3 after being served with these findings and recommendations, any party may file written  
4 objections with the court and serve a copy on all parties. Such a document should be captioned  
5 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the  
6 objections shall be filed and served within fourteen days after service of the objections. The  
7 parties are advised that failure to file objections within the specified time may waive the right to  
8 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

9 Dated: March 20, 2023

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12 KENDALL J. NEWMAN  
13 UNITED STATES MAGISTRATE JUDGE

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