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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

NATHANIEL SMITH,  
  
Plaintiff,  
  
v.  
  
CITY OF STOCKTON; OFFICER  
MAYER, OFFICER ROBIN  
HARRISON, OFFICER MICHAEL  
PEREZ, AND FORMER CHIEF OF  
POLICE BLAIR ULRING, in their  
individual capacities; and  
CHIEF OF POLICE ERIC JONES,  
in his official capacity,  
  
Defendants.

No. 2:15-CV-00363-GEB-AC

**ORDER REFERRING THE DISMISSAL  
MOTION FILED BY CITY OF STOCKTON  
AND CHIEF OF POLICE ERIC JONES  
TO THE BANKRUPTCY COURT**

Plaintiff filed a Complaint in district court alleging federal and state law claims concerning his arrest on February 13, 2013. Defendants City of Stockton ("the City") and Chief of Police Eric Jones ("Jones") (collectively "Defendants") seek dismissal of each claim contending the claims are barred since Plaintiff did not file a Proof of Claim in the City's bankruptcy proceedings. Specifically, Defendants contend:

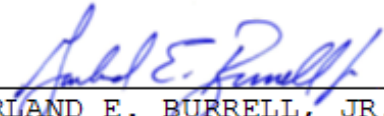
[The City] filed a Chapter 9 case in the United States Bankruptcy Court for the Eastern District of California. (Case No. 2012-23118). According to Section II.D. of the Amended Plan of Adjustment [("the Plan")] (page 32), all proofs of claim for Post-petition claims that arise prior to August

1 16, 2013 must have been filed by August 16,  
2 2013, in order to be considered timely. . . .  
3 The terms of the Plan are binding on all  
4 creditors, including Plaintiff. The Plan  
5 provides (on page 49) that upon the  
6 "Effective Date," the City is discharged from  
7 all its debts other than those excepted from  
8 the discharge Plan or by statute. . . .  
9 Plaintiff in this case did not file a Proof  
10 of Claim with the [B]ankruptcy [C]ourt. As  
11 such, . . . Plaintiff [is barred] from  
12 recovering anything on [his] claims against  
13 [the City]. . . . Additionally, [Plaintiff is  
14 barred] . . . from recovering anything on  
15 [his] claims against [Jones] since he is  
16 being sued in his official capacity as Chief  
17 of Police for the Stockton Police  
18 Department."

11 (Defendants' City of Stockton and Chief of Police Eric Jones' Not. of  
12 Mot. & Mot. to Dismiss ("Mot.") 2:2-22, ECF No.9.)

13 Defendants' dismissal motion is premised on  
14 interpretation of an order or orders issued by the Bankruptcy  
15 Court in the City's chapter 9 bankruptcy proceeding, captioned In  
16 re City of Stockton, California, Case No. 2012-32118. Therefore,  
17 Defendants' dismissal motion is referred to the bankruptcy court  
18 under 28 U.S.C. § 157(a), and the motion scheduled for hearing  
19 before this district judge on May 11, 2015 is deemed withdrawn.

20 Dated: May 5, 2015

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24 GARLAND E. BURRELL, JR.  
25 Senior United States District Judge  
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