

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

TERRENCE LAMAR WILBURN,
Plaintiff,
v.
GARREN BRATCHER, et al.,
Defendants.

No. 2:15-cv-0699 TLN GGH PS

ORDER

Plaintiff is proceeding pro se in this action, referred to the undersigned pursuant to Local Rule 302(c)(21).

Presently calendared for hearing on June 18, 2015 are motions to dismiss filed by defendant Bratcher (ECF No. 15), and by defendant Gweon. (ECF Nos. 20, 21, 23, 24.) Plaintiff has filed an opposition to Bratcher’s motion to dismiss. (ECF No. 31.) Plaintiff has not filed an opposition to Gweon’s motion; however, he has filed a motion to continue the hearing on both of the aforementioned motions to August 6, 2015 with an implied request to file his opposition at a later time due to defendants’ alleged failure to serve plaintiff with the motions in a timely manner and the change in hearing date on Gweon’s motion from January, 2016 to June, 2015. (ECF No. 29.) A review of the docket and proofs of service filed in conjunction with Gweon and Bratcher’s motions to dismiss indicate that plaintiff was served with the motions at least twenty-eight (28) days prior to the noticed hearing date of June 18, 2015. (ECF Nos. 19, 20.) See E.D. Local Rule

1 230(b). As plaintiff has now filed an opposition to Bratcher's motion to dismiss, (ECF No. 31),
2 his request is moot as to that motion. In regard to defendant Gweon's motion, plaintiff's request
3 for a continuance in this regard will be construed as a request for extension of time in which to
4 oppose that motion and will be granted.

5 Also before the court is plaintiff's motion to remand, filed April 20, 2015, and noticed for
6 hearing on August 6, 2015.¹ (ECF Nos. 6, 28.)

7 Having reviewed the record, the court has determined that oral argument would not be of
8 material assistance in determining the aforementioned pending motions. Accordingly, the court
9 will not entertain oral argument, and will determine the motions on the record, including the
10 briefing in support of and in opposition to the pending motions. See E.D. Cal. L.R. 230(g).

11 Good cause appearing, IT IS HEREBY ORDERED that:

12 1. The June 18, 2015 hearing on the motions to dismiss filed by defendants Bratcher and
13 Gweon, (ECF Nos. 15, 20), and the August 6, 2015 hearing on plaintiff's motion to remand, (ECF
14 Nos. 6, 28), are vacated;

15 2. Plaintiff's motion to continue, construed as a request for extension of time in which to
16 file an opposition, (ECF No. 29), is granted in part. Plaintiff shall file his opposition to defendant
17 Gweon's motion to dismiss by **July 9, 2015**.

18 3. The motions will be submitted on the record after the time for filing opposition and
19 replies have passed.

20 Dated: June 10, 2015

21 /s/ Gregory G. Hollows

22 UNITED STATES MAGISTRATE JUDGE

23
24
25
26 GGH:076/Wilburn0699.vac(2)

27 _____
28 ¹ Plaintiff's motion was previously noticed for June 4, 2015; however, plaintiff subsequently re-
noticed it. (ECF No. 17.)