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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ZACHARIAH DANIELS,
Plaintiff,
v.
AGUILLERA, et al.,
Defendants.

No. 2:16-cv-0996 JAM CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state inmate proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. In his first amended complaint, plaintiff alleged that defendants Aguilera and Bick were deliberately indifferent to his serious medical needs in violation of the Eighth Amendment and that defendants Morrison, Leseane, Taylor, and Haley retaliated against him by placing and retaining him in administrative segregation and later in transferring him to R.J. Donovan Correctional Facility, all in violation of the First Amendment. See ECF Nos. 24 (first amended complaint); 27 (screening order). Currently pending before the court is defendants’ motion to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure on the basis that it is barred by a settlement agreement in a prior civil rights action. Following two extensions of time, plaintiff filed his opposition on October 22, 2018. ECF No. 45.

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1 Defendants filed a reply and plaintiff filed a sur-reply.¹ ECF Nos. 46, 47. For the reasons
2 explained below, the undersigned recommends granting defendants' motion and dismissing this
3 case with prejudice.

4 **I. Allegations in the First Amended Complaint**

5 The allegations in the first amended complaint all concern events that occurred while
6 plaintiff was an inmate at the California Medical Facility in Vacaville ("CMF-Vacaville"). See
7 ECF No. 24 at 2. All defendants in the present action were employed at CMV-Vacaville from
8 August 9, 2014 through January 19, 2017, the time frame at issue in the amended complaint. Id.
9 at 2-8. Plaintiff was a mobility impaired inmate who fell down a flight of stairs on June 13, 2015
10 causing him additional significant injury to his back, knee, thigh, and head. ECF No. 24 at 19.
11 He alleges that defendant Aguilera was deliberately indifferent to his serious medical needs
12 before and after his fall down the stairs by refusing him accommodations for his disability and by
13 waiting for 8 months to order an x-ray of plaintiff's injuries. Id. at 11, 18-19. Plaintiff further
14 alleges that defendant Bick was deliberately indifferent to his serious medical needs by failing to
15 consult with an orthopedic surgeon. Id. at 15.

16 Plaintiff also contends that defendants Leseane placed him in administrative segregation
17 in alleged retaliation for his staff complaints and administrative appeals. ECF No. 24 at 25.
18 According to the amended complaint, defendant Morrison also retaliated against plaintiff by filing
19 a false rules violation report that led to him being placed in administrative segregation because
20 plaintiff would not withdraw his staff complaints. Id. at 25-26. Plaintiff additionally alleges that
21 defendants Taylor and Haley retaliated against him by prolonging his placement in administrative
22 segregation in order to punish him for filing staff complaints. Id. at 32, 42. Lastly, plaintiff
23 contends that defendants Taylor and Haley had him transferred to R.J. Donovan Correctional

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25 ¹ Since a motion is deemed submitted to the court after the filing of a reply or the time for filing a
26 reply has expired, plaintiff's sur-reply has been disregarded by the court. See Local Rule 230(1).
27 However, on November 13, 2018, defendants filed a motion to strike plaintiff's sur-reply. ECF
28 No. 48. This prompted plaintiff to file an opposition to the motion to strike. ECF No. 49. The
court has the authority to sua sponte disregard plaintiff's sur-reply pursuant to Local Rule 230(1)
without the need of a formal motion to strike. Accordingly, the court will deny defendants'
motion to strike as moot. ECF No. 48.

1 Facility, hundreds of miles from his family, in retaliation for filing administrative appeals. Id. at
2 40-41.

3 **II. Motion to Dismiss**

4 In their motion to dismiss, defendants assert that the claims in plaintiff's amended
5 complaint are barred by the terms of the settlement agreement in Daniels v. Fox, et al., Case No.
6 2:15-cv-1264 GEB AC P (E.D. Cal) ("the Fox case"). As part of the Fox settlement, plaintiff
7 agreed "to forgo any possible future claims he may have arising out of the California Medical
8 Facility, with the Defendants named in this lawsuit, any possible claim which could have been
9 brought in relation to this lawsuit with any named or unnamed staff members, and any possible
10 claims related to his transfer to Richard J. Donovan Correctional Facility." ECF No. 35 at 23, ¶ 8
11 (Settlement Agreement and Release). The only pending case that was excluded from the terms of
12 this settlement agreement was Daniels v. Fiallos-Montero, Case No. 2:16-cv-0852 WBS CKD
13 (PC) ("the Montero case"), which was stated on the record as a specific settlement "caveat." ECF
14 No. 35 at 14 (Transcript of Settlement Conference). At the time plaintiff entered into the Fox
15 settlement agreement, he had already filed the first amended complaint in the instant case. Since
16 the allegations in the amended complaint concern plaintiff's incarceration at CMF and his transfer
17 to R.J. Donovan, defendants request a dismissal with prejudice based on the terms of the Fox
18 settlement agreement.

19 In his opposition, plaintiff contends that the language in the settlement agreement in the
20 Fox case does not bar this present action because it does not involve any of the same defendants.
21 ECF No. 45 at 2. He focuses on the language in the settlement agreement that states that he is
22 waiving any possible future claims against "the defendants named in this lawsuit...." ECF No. 35
23 at 23, ¶ 8. Moreover, according to plaintiff, he only agreed to settle the claims arising out of
24 CMF with defendants who were named in the Fox lawsuit and that Magistrate Judge Hollows'
25 explanation of the settlement terms comports with his understanding. "The resolution of this case
26 includes the language that was just given by the deputy attorney general and which, in lay terms,
27 means any claim, known or unknown, arising out of **this lawsuit**, including any claims of transfer
28 to the Donovan facility are covered by this lawsuit." ECF No. 35 at 14-15 (emphasis added).

1 Plaintiff further suggests referring this matter back to Judge Hollows so that plaintiff and
2 plaintiff's family who attended the settlement conference on May 4, 2017 could testify that the
3 court stated that matters which plaintiff had already filed are excluded from the waiver. ECF No.
4 45 at 3. Lastly, plaintiff argues that because the Montero case was excluded from the settlement
5 since it was pending, this case should also be excluded because it was also pending at the time of
6 the Fox settlement.

7 By way of reply, defendants contend that the intention of the parties in the Fox settlement
8 was to resolve all claims arising out of plaintiff's incarceration at CMF-Vacaville. ECF No. 46 at
9 2. This included claims that "were both related and unrelated to the Fox claims and Defendants."
10 Id. Furthermore, the explicit and uncontradicted language in the settlement agreement bars "any
11 possible claims related to... [plaintiff's] transfer to R.J. Donovan Correctional Facility." ECF
12 No. 35 at 23. Since all of plaintiff's pending retaliation claims against defendants Morrison,
13 Leseane, Taylor, and Haley all related to his transfer to R.J. Donovan and the events leading up to
14 it, these defendants should be dismissed. ECF No. 46 at 2.

15 **III. Legal Standards for a Motion to Dismiss**

16 In order to survive dismissal for failure to state a claim pursuant to Rule 12(b)(6), a
17 complaint must contain more than a "formulaic recitation of the elements of a cause of action;" it
18 must contain factual allegations sufficient to "raise a right to relief above the speculative level."
19 Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007). "The pleading must contain something
20 more ... than ... a statement of facts that merely creates a suspicion [of] a legally cognizable right
21 of action." Id., quoting 5 C. Wright & A. Miller, Federal Practice and Procedure § 1216, pp.
22 235–236 (3d ed. 2004). "[A] complaint must contain sufficient factual matter, accepted as true, to
23 'state a claim to relief that is plausible on its face.'" Ashcroft v. Iqbal, 556 U.S. 662 (2009)
24 (quoting Twombly, 550 U.S. at 570). "A claim has facial plausibility when the plaintiff pleads
25 factual content that allows the court to draw the reasonable inference that the defendant is liable
26 for the misconduct alleged." Id.

27 In considering a motion to dismiss, the court must accept as true the allegations of the
28 complaint in question, Hospital Bldg. Co. v. Rex Hospital Trustees, 425 U.S. 738, 740 (1976),

1 construe the pleading in the light most favorable to the party opposing the motion and resolve all
2 doubts in the pleader's favor. Jenkins v. McKeithen, 395 U.S. 411, 421 (1969). The court will
3 “presume that general allegations embrace those specific facts that are necessary to support the
4 claim.” National Organization for Women, Inc. v. Scheidler, 510 U.S. 249, 256 (1994), quoting
5 Lujan v. Defenders of Wildlife, 504 U.S. 555, 561 (1992). Moreover, pro se pleadings are held to
6 a less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520
7 (1972).

8 **IV. Judicial Notice**

9 When ruling on motions to dismiss, courts may consider matters for which they take
10 judicial notice. Outdoor Media Grp., Inc. v. City of Beaumont, 506 F.3d 895, 899 (9th Cir.
11 2007); see Fed. R. Evid. 201(d) (“The court may take judicial notice at any stage of the
12 proceedings.”). A fact subject to judicial notice is one that is “not subject to reasonable dispute
13 because it: (1) is generally known within the trial court's territorial jurisdiction; or (2) can be
14 accurately and readily determined from sources whose accuracy cannot reasonably be
15 questioned.” Fed. R. Evid. 201(b). Additionally, courts may take judicial notice of the records of
16 state agencies, administrative bodies, and other undisputed matters of public record. Disabled
17 Rights Action Comm. v. Las Vegas Events, Inc., 375 F.3d 861, 866 n.1 (9th Cir. 2004); Interstate
18 Nat. Gas Co. v. S. Cal. Gas Co., 209 F.2d 380, 385 (9th Cir. 1953). “[C]ourts routinely take
19 judicial notice of documents filed in other courts ... to establish the fact of such litigation and
20 related filings.” Kramer v. Time Warner Inc., 937 F.2d 767, 774 (2nd Cir. 1991) (citation
21 omitted). A court “must take judicial notice if a party requests it and the court is supplied with
22 the necessary information.” Fed. R. Evid. 201(c)(2).

23 In this case, defendants request judicial notice of the docket in Daniels v. Fiallos-Montero,
24 Case No. 2:16-cv-0852 WBS CKD (PC) (E.D. Cal.), as well as the transcript of the settlement
25 conference and the settlement agreement in Daniels v. Fox, Case No. 2:15-cv-1264 GEB-AC
26 (PC) (E.D. Cal.). See ECF No. 35 at 5-25. Since the court’s docket and settlement agreements
27 that are made a part of the court record are “known within this court’s territorial jurisdiction” and
28 can be “accurately and readily determined,” the defendants’ request for judicial notice will be

1 granted.

2 **V. Analysis**

3 As an initial matter, the court will deny plaintiff's request to refer this matter back to the
4 magistrate judge who conducted the Fox settlement. Since the terms of the Fox settlement
5 agreement were placed on the record and a transcript was made of this hearing, there is no need
6 for this matter to be referred back to Magistrate Judge Hollows who presided over the settlement
7 conference. Plaintiff's request for an evidentiary hearing in this matter will also be denied as
8 unnecessary. See Doi v. Halekulani Corp., 276 F.3d 1131, 1139-40 (9th Cir. 2002) (holding that
9 where the material terms of a settlement agreement and the parties assent to such terms is placed
10 on the record, an evidentiary hearing to determine whether an agreement has been reached is
11 unnecessary).

12 "The interpretation of a settlement agreement is governed by principles of state contract
13 law[,] ... even where a federal cause of action is 'settled' or 'released.'" Botefur v. City of Eagle
14 Point, 7 F.3d 152, 156 (9th Cir. 1993) (citations omitted). Thus, this court applies California
15 contract law to resolve the present dispute. Under California law, "[r]elease, indemnity and
16 similar exculpatory provisions are binding on the signatories and enforceable so long as they are
17 ... 'clear, explicit and comprehensible in each [of their] essential details. Such an agreement, read
18 as a whole, must clearly notify the prospective releasor or indemnitor of the effect of signing the
19 agreement.'" Skrbina v. Fleming Cos., 45 Cal. App. 4th 1353, 1368 (1996) (citation omitted).
20 Moreover, it is an established principle of California contract law that contracts are to be
21 interpreted according to the objective intent of the parties. See Beck v. American Health Group
22 Int'l, Inc., 211 Cal. App. 3d 1555, 1562, 260 Cal. Rptr. 237 (Cal. Ct. App. 1989); see also Cal.
23 Civ. Code § 1636 (2009). Here, the objective intent of the defendants in the Fox settlement was
24 stated on the record. As Magistrate Judge Hollows explained, "[i]n other words, as we discussed
25 in conference, defendants want to know they bought their peace and there's not some other claim
26 arising out of here that, you know, becomes a whole new lawsuit. And Mr. Daniels, you agree to
27 that? Yes, sir." ECF No. 35 at 15. Thus, applying well-established contract law principles to this
28 case, the objective intent of the parties was to resolve all potential litigation stemming from

1 plaintiff's incarceration at CMF and "any possible claims related to his transfer to Richard J.
2 Donovan Correctional Facility." ECF No. 35 at 14.

3 Furthermore, the court rejects plaintiff's argument that this case should be excluded from
4 the terms of the Fox settlement simply because the Montero case was excluded. Even though
5 both cases were pending at the time of the Fox settlement, the only exception included in the Fox
6 waiver was a singular reference to "the complaint he already has...." ECF No. 35 at 14. The
7 defendant in the Montero case had already been served and filed an answer prior to the date of the
8 Fox settlement. See Daniels v. Fiallos-Montero, Case No. 2:16-cv-0852 WBS CKD (PC) (E.D.
9 Cal.). Therefore, the complaint referenced in the Fox settlement agreement is the Montero case
10 and not the instant matter which was still pending screening by the court at the time of the Fox
11 settlement. Since the exception in the waiver was stated in the singular and not the plural, there is
12 no basis for the court to find that any additional pending complaint was excluded from the
13 specific terms of the Fox settlement.

14 For all of these reasons, the claims in the first amended complaint are barred by the terms
15 of the Fox settlement agreement. Accordingly, the undersigned recommends granting
16 defendants' motion to dismiss the complaint with prejudice.

17 **VI. Plain Language Summary for Pro Se Party**

18 Since plaintiff is acting as his own attorney in this case, the court wants to make sure that
19 the words of this order are understood. The following information is meant to explain this order
20 in plain English and is not intended as legal advice.

21 The court has reviewed the Fox settlement agreement and the transcript of the proceedings
22 before Magistrate Judge Hollows related thereto, and finds that plaintiff agreed to abandon any
23 claims related to his incarceration at CMF-Vacaville as well as any claims related to his transfer
24 to R.J. Donovan. As a result of this waiver, plaintiff is barred from pursuing his claims in the
25 instant case because they all relate to his custody at CMF-Vacaville and his transfer to R.J.
26 Donovan. The undersigned is recommending that defendants' motion to dismiss be granted.

27 If you disagree with this recommendation, you have fourteen days to explain to the court
28 why this is not the correct outcome in your case. If you choose to do this you should label your

1 explanation as “Objections to Magistrate Judge’s Findings and Recommendations.” The district
2 court judge assigned to your case will review any objections that are filed and will make a final
3 decision on the motion to dismiss.

4 Accordingly, IT IS HEREBY ORDERED that defendants’ motion to strike plaintiff’s sur-
5 reply (ECF No. 48) is denied as moot since the court has disregarded it.

6 IT IS FURTHER RECOMMENDED that:

- 7 1. Defendants’ motion to dismiss (ECF No. 34) be granted;
- 8 2. This case be dismissed with prejudice; and,
- 9 3. The Clerk of Court be directed to close this case.

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

18 Dated: January 3, 2019

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21 CAROLYN K. DELANEY
22 UNITED STATES MAGISTRATE JUDGE
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