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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH P. CUVIELLO.,
Plaintiff,
v.
CITY OF VALLEJO, et al.,
Defendants.

No. 2:16-cv-2584-KJM-KJN (PS)

ORDER

On March 9, 2017, this case was before the undersigned for a status (pretrial scheduling) conference. Plaintiff appeared on his own behalf. Attorney Frank Splendorio appeared on behalf of defendants. During the status conference, the court raised the issue of whether defendants intend to file a dispositive motion in this matter regarding their allegation that some or all of plaintiff's claims or the issues presented in this action are precluded by a judgment entered in an action involving plaintiff in California state court. When addressing the issue of whether a pretrial scheduling order should be issued in this action in light of defendants' intention to file such a motion, the parties agreed that a schedule should not be issued until that proposed motion is resolved.

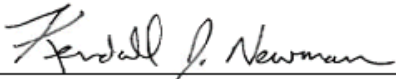
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1 Accordingly, and for the reasons discussed on the record during the status conference, IT
2 IS HEREBY ORDERED that:

- 3 1. No pretrial scheduling order will issue at this time.
- 4 2. Within 60 days from the date of this order, defendants shall file their proposed motion
5 addressing their allegation that some or all of this action is precluded by the judgment
6 in the California state court action.¹ Plaintiff shall file an opposition to defendants'
7 motion within 30 days of defendants' filing that motion. Defendants shall file a reply,
8 if any, 14 days thereafter.²
- 9 3. The court will issue a pretrial scheduling order, if necessary, on the court's own
10 motion at a later time after the court has sought further input from the parties
11 regarding the scheduling of this matter subsequent to the resolution of defendants'
12 proposed motion.

13 IT IS SO ORDERED.

14 Dated: March 10, 2017

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17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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25 ¹ This motion may take the form of a motion to dismiss, motion for judgment on the pleadings, or
26 any other dispositive motion, or a motion to stay this action, whichever of these motions
27 defendants believe appropriate to address the issue.

28 ² As noted during the hearing, plaintiff is not precluded from filing a motion for preliminary
 injunction or any other cognizable request for relief prior to defendants' deadline to file their
 motion.