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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LYNN GAVIN & THOMAS ADEYEMI,
Plaintiffs,
v.
UNIVERSITY OF CALIFORNIA, et al.,
Defendants.

No. 2:16-cv-2816-JAM-KJN PS

ORDER

On September 28, 2016, plaintiff Lynn Gavin commenced an action in this court against defendants University of California, University of California Regents, University of California Office of the President, UC Davis Interim Chancellor Ralph Hexter, and UC Davis Family Student Housing Director Emily Galindo. See 2:16-cv-2316-JAM-EFB. In short, Ms. Gavin alleged that she is an individual with multiple disabilities who for several years had resided with her son, Thomas Adeyemi, in student family housing that is provided for students with family at UC Davis. However, Thomas graduated in June 2016, and the apartment lease expired at the end of July 2016. Although the university granted several of Ms. Gavin’s requests for an extension of time to find another apartment suitable for her disabilities, the university ultimately instructed Ms. Gavin to vacate the apartment by the end of September 30, 2016. The university explained that it was not feasible for Ms. Gavin and her son to stay longer, because the housing was needed for incoming students and their families.

1 Claiming that the university failed to reasonably accommodate her disabilities in various
2 respects, plaintiff Gavin asserted claims under the Americans with Disabilities Act (“ADA”), the
3 Rehabilitation Act, the Fair Housing Act, 42 U.S.C. § 1983 (for violations of the Due Process
4 Clause and the Equal Protection Clause), and Title VI of the Civil Rights Act, as well as several
5 state law claims. Recently, on November 15, 2016, Judge Mendez, the district judge assigned to
6 the prior and the instant case, dismissed plaintiff Gavin’s complaint without leave to amend.

7 Less than two weeks after dismissal of that action, plaintiffs Lynn Gavin and her son,
8 Thomas Adeyemi, commenced the instant action against the University of California, the
9 University of California Regents, University of California President Janet Napolitano, U.C. Davis
10 Interim Chancellor Ralph Hexter, and UC Davis Family Student Housing Director Emily
11 Galindo. Although this second action adds Ms. Gavin’s son, Thomas, as a plaintiff, and appears
12 to add some additional claims, plaintiffs’ claims are all grounded on defendants’ purported failure
13 to reasonably accommodate plaintiff Gavin’s alleged disabilities and arise from the same
14 transactional nucleus of facts. Indeed, the filing of this second action appears to be motivated
15 purely by plaintiffs’ dissatisfaction with the outcome of the previous action in this court.

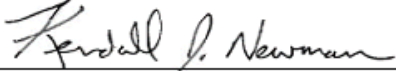
16 Therefore, on December 2, 2016, the court issued findings and recommendations
17 recommending that the instant action be dismissed as duplicative. (ECF No. 6.) As the court
18 noted in the findings and recommendations, if plaintiffs believe that the court erred in its
19 adjudication of the first action, the proper remedy is to move for relief from the final judgment in
20 the first action or to file an appeal of the first action, not to file a second duplicative action. Since
21 the issuance of the findings and recommendations, plaintiffs filed objections (ECF No. 7), which
22 remain pending before the district judge, as well as a notice of appeal to the Ninth Circuit Court
23 of Appeals (ECF No. 8).

24 Thereafter, on January 26, 2017, plaintiff Thomas Adeyemi filed a motion for an
25 emergency stay. (ECF No. 11.) Liberally construed, the motion seeks reconsideration of the
26 undersigned’s findings and recommendations, as well as an order staying the judgment entered in
27 an unlawful detainer action filed in state court against plaintiffs. It appears that the state court has
28 ordered plaintiffs’ eviction to take place on January 31, 2017.

1 Having carefully reviewed plaintiff Adeyemi's motion, the court finds no proper basis to
2 reconsider its findings and recommendations or to stay the state court's unlawful detainer
3 judgment. Plaintiff's Adeyemi's arguments lack merit and do not present a legal impediment to
4 the lawfully scheduled eviction. As such, plaintiffs' motion is denied. However, such denial is
5 without prejudice to seeking appropriate relief from the assigned district judge or the Ninth
6 Circuit Court of Appeals.

7 Accordingly, IT IS HEREBY ORDERED that plaintiff Adeyemi's motion for an
8 emergency stay is DENIED. This order resolves ECF No. 11.

9 Dated: January 30, 2017

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12 KENDALL J. NEWMAN
13 UNITED STATES MAGISTRATE JUDGE
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