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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARREL L. ESPINOSA,
Plaintiff,
v.
PERSEPO.COM, INC., et al.,
Defendants.

No. 2:16-mc-00168-KJM

ORDER

This case is before the court as required by a pre-filing review order issued in a prior case. *See Espinosa v. Marshall et al.*, Case No. 2:06-cv-01192-MCE-GGH (E.D. Cal. June 15, 2007). The pre-filing review order declared plaintiff a “vexatious litigant” and required plaintiff to submit a declaration certifying that any new litigation is not related to prior cases brought by plaintiff and that the new claims are not frivolous or made in bad faith. *Id.* at 2–3.

On October 14, 2016, plaintiff filed the complaint in this action and a pre-filing review declaration. ECF Nos. 1, 3. Upon review of plaintiff’s declaration, the court found it could not determine whether the instant case “is in fact related to a previous case filed by plaintiff,” as required by the pre-filing review order. ECF No. 6 (filed November 1, 2016). The court struck plaintiff’s declaration, allowed him to file a second declaration complying with the pre-filing review order within fourteen days, and warned that his failure to do so could result in dismissal. *Id.* at 2.

1 Rather than filing a second declaration, plaintiff appealed. ECF No. 7 (notice of
2 appeal filed November 4, 2016). Because this court had not issued a final or appealable order, the
3 Ninth Circuit dismissed for lack of jurisdiction. ECF Nos. 9, 10 (mandate issued January 5,
4 2017).

5 It has been over six months since the Ninth Circuit dismissed plaintiff's appeal.
6 As of this date, he has not filed a subsequent declaration complying with his pre-filing review
7 order or otherwise enabling the court to determine whether this action "is in fact related to a
8 previous case filed by plaintiff," as the pre-filing review order requires. Plaintiff has been fairly
9 warned of the consequences of not filing a second declaration and has had ample time to do so.
10 Given his sustained silence, dismissal is appropriate.

11 Accordingly, the court DISMISSES this action with prejudice.

12 This order resolves ECF No. 6.

13 IT IS SO ORDERED.

14 DATED: August 2, 2017.

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18 UNITED STATES DISTRICT JUDGE
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