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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEITH CANDLER,
Plaintiff,
v.
HERRERA,
Defendant.

No. 2:17-cv-0789 JAM KJN P

FINDINGS AND RECOMMENDATION

Plaintiff is a state prisoner, proceeding pro se. Plaintiff's complaint, signed December 11, 2016, was removed from state court by defendant. Defendant also filed a notice of related case stating that the instant complaint involves identical claims and parties as those filed by plaintiff in Candler v. Herrera, No. 2:17-cv-0484 KJN (E.D. Cal.) (complaint signed February 26, 2017). Defendant requests that both cases be assigned to the undersigned and, further, suggest that the two actions be consolidated in 2:17-cv-0484 KJN to avoid duplication of court resources.

However, review of the two complaints confirm that aside from being filed on different court forms, plaintiff's allegations are virtually identical.¹ The undersigned has screened plaintiff's allegations in the earlier-filed action, and service of process on defendant Herrera was ordered. No. 2:17-cv-0484 KJN (ECF No. 9.) Plaintiff consented to the dismissal of his

¹ A court may take judicial notice of court records. See MGIC Indem. Co. v. Weisman, 803 F.2d 500, 505 (9th Cir. 1986); United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980).

1 retaliation claim against defendant Herrera. (ECF No. 8.) Due to the duplicative nature of the
2 present action, it appears appropriate that the complaint be dismissed.

3 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without
4 prejudice. See Fed. R. Civ. P. 41(b).

5 These findings and recommendations are submitted to the District Judge assigned to this
6 case pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served
7 with these findings and recommendations, plaintiff may file written objections with the court.
8 The document should be captioned “Objections to Magistrate Judge’s Findings and
9 Recommendations.” Plaintiff is advised that failure to file objections within the specified time
10 may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th
11 Cir. 1991).

12 Dated: May 3, 2017

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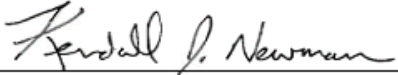
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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE