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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KASEY F. HOFFMANN,

Plaintiff,

v.

DEANNA BOVEE, et al.,

Defendants.

No. 2:17-cv-1761-JAM-EFB PS

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff, a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983, has filed a request for leave to proceed in forma pauperis. His application makes the required showing and is granted. However, the court must screen the complaint pursuant to 28 U.S.C. § 1915(e)(2). That section directs the court to dismiss a case at any time if the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant.

Plaintiff brings this action against defendants Lassen Family Services, Deena Bovee, and Casey Simoni, alleging defendants violated his constitutional rights and provision of the Indian Child Welfare Act (“ICWA”) when they terminated his custody rights over his biological son. ECF No. 1. Examination of the court’s records reveals that plaintiff has already commenced an action against the same defendants over the same dispute. *See Hoffman v. Lassen County*, No. 2:17-cv-1734-WBS-EFB P (E.D. Cal.), ECF No. 1 (Compl.). Therefore, this action is duplicative

1 and should be dismissed.¹ *See Barapind v. Reno*, 72 F. Supp. 2d 1132, 1144 (E.D. Cal. 1999)
2 (when a complaint involving the same parties and issues has already been filed in another federal
3 district court, the court has discretion to abate or dismiss the second action).

4 Accordingly, IT IS ORDERED that plaintiff's request to proceed in forma pauperis (ECF
5 No. 2) is granted.

6 Further, it is hereby RECOMMENDED that this action be dismissed as duplicative.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
12 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
13 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

14 Dated: August 23, 2018.

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16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE

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27 ¹ "Federal comity and judicial economy give rise to rules which allow a district court to
28 transfer, stay, or dismiss an action when a similar complaint has already been filed in another
federal court." *Id.* at 1145 (citation omitted). "[I]ncreasing calendar congestion in the federal
courts makes it imperative to avoid concurrent litigation in more than one forum whenever
consistent with the right of the parties." *Crawford v. Bell*, 599 F.2d 890, 893 (9th Cir. 1979).