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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RAMIN SHEKARLAB,  
  
Plaintiff,  
  
v.  
  
COUNTY OF SACRAMENTO, et al.,  
  
Defendants.

No. 2:18-cv-47-JAM-EFB

**ORDER DISMISSING PUNITIVE  
DAMAGES ON STATE CLAIMS**

On April 26, 2018, the Court dismissed Plaintiff's punitive damages claim against Defendant Charles Kim. ECF No. 26. The Court also ordered Plaintiff to show cause as to why the punitive damages claims against the other Defendants should not also be dismissed, as to the state claims. Plaintiff filed his response, which opposes dismissal. Response, ECF No. 30. Alternatively, Plaintiff seeks modification of the current scheduling order. Plaintiff also requests an order stating that Plaintiff is not prohibited from undertaking discovery on issues pertaining to punitive damages.

The Court finds the punitive damages sought in relation to Plaintiff's two state law claims are barred by California Code of Civil Procedure § 425.13. Plaintiff argues that the time limits in this code section conflict with this Court's scheduling order

1 because Plaintiff will need to file its motion before expert  
2 discovery takes place. Response at 2. However, Plaintiff fails  
3 to explain why expert testimony is necessary to establish  
4 Defendants' "malice, oppression, or fraud." See Aquino v. Super.  
5 Ct., 21 Cal. App. 4th 847, 854-55 (1992). The Court does not  
6 find the hypothetical conflict warrants departure from the  
7 reasoning and conclusions in its previous dismissal order and  
8 does not warrant modification of the scheduling order at this  
9 time. This ruling is without prejudice to a later motion  
10 regarding scheduling after discovery has progressed and Plaintiff  
11 is able to present a sufficient factual and legal basis for  
12 modification.

13 The Court declines to issue an order regarding the scope of  
14 discovery. Plaintiff's request is based on a belief that  
15 Defendants will oppose discovery related to punitive damages.  
16 Response at 3. This issue, too, is hypothetical. Plaintiff  
17 should seek the discovery he believes he is entitled to and any  
18 opposition from Defendants may be addressed by the appropriate  
19 discovery motions before the magistrate judge. See E.D. Local  
20 Rule 302(c).

21 For the reasons set forth above, and in the Court's Order  
22 Granting Defendant's Motion to Dismiss, ECF No. 26, Plaintiff's  
23 claims for punitive damages on his state law claims are DISMISSED  
24 as to all Defendants.

25 IT IS SO ORDERED.

26 Dated: May 9, 2018

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28 JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE