



1 A suit is duplicative if the “claims, parties, and available relief do not significantly differ  
2 between the two actions.” *Barapind v. Reno*, 72 F. Supp.2d 1132, 1145 (E.D. Cal. 1999) (quoting  
3 *Ridge Gold Standard Liquors, Inc. v. Joseph E. Seagram & Sons, Inc.*, 572 F. Supp. 1210, 1213  
4 (N.D. Ill. 1983)). “When a complaint involving the same parties and issues has already been filed  
5 in another federal district court, the court has discretion to abate or dismiss the second action. *Id.*  
6 at 1144 (citation omitted). “Federal comity and judicial economy give rise to rules which allow a  
7 district court to transfer, stay, or dismiss an action when a similar complaint has already been  
8 filed in another federal court.” *Id.* at 1145 (citation omitted). “[I]ncreasing calendar congestion in  
9 the federal courts makes it imperative to avoid concurrent litigation in more than one forum  
10 whenever consistent with the right of the parties.” *Crawford v. Bell*, 599 F.2d 890, 893 (9th Cir.  
11 1979).

12 Due to the duplicative nature of the present action, this action should be dismissed and  
13 petitioner should proceed on the action he initially commenced.

14 Accordingly, it is hereby ORDERED that:


- 15 1. Petitioner’s application for leave to proceed in forma pauperis (ECF No. 2) is granted;
- 16 2. Petitioners request for appointment of counsel (ECF No. 3) is denied; and
- 17 3. The Clerk of the Court shall randomly assign a United States District Judge to this  
18 action.

19 Further, it is hereby RECOMMENDED that this action be dismissed.

20 These findings and recommendations are submitted to the United States District Judge  
21 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
22 after being served with these findings and recommendations, any party may file written  
23 objections with the court and serve a copy on all parties. Such a document should be captioned  
24 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections  
25 shall be served and filed within fourteen days after service of the objections. Failure to file  
26 objections within the specified time may waive the right to appeal the District Court’s order.  
27 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.  
28 1991). In his objections petitioner may address whether a certificate of appealability should issue

1 in the event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing Section  
2 2254 Cases in the United States District Courts (the district court must issue or deny a certificate  
3 of appealability when it enters a final order adverse to the applicant).

4 DATED: May 31, 2018.

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6 EDMUND F. BRENNAN  
7 UNITED STATES MAGISTRATE JUDGE  
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