

1 MELINDA HAAG (CABN 132612)
United States Attorney

2
3 ALEX G. TSE (CABN 152348)
Chief, Civil Division

4 ROBIN M. WALL (CABN 235690)
5 Assistant United States Attorney

6 450 Golden Gate Avenue, Box 36055
7 San Francisco, CA 94102
8 Phone: (415) 436-7071
9 Fax: (415) 436-6748

10 Attorneys for Defendant USA

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13
14 ANTHONY CHRISANTHIS,

15 Plaintiff,

16 v.

17 R. JAMES NICHOLSON, *et al.*,

18 Defendants.

No. 07-cv-00566-WHA

**UNITED STATES OF AMERICA'S
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED; AND
[PROPOSED] ORDER**

19
20 Pursuant to Civil Local Rule 3-12, the United States of America hereby files this
21 Administrative Motion to Consider Whether Cases Should be Related. The motion is being
22 served on plaintiff. Chambers copies are being provided to the judges assigned to all three cases.
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24 **I. TITLE AND CASE NUMBER OF EACH ACTION**

25 The above-captioned action is the earliest filed case. The second case is *Chrisanthis v.*
26 *Cason, et al.*, No. 08-cv-02472-WHA, which was related to the earliest case by order of the
27 Honorable Judge William H. Alsup on June 6, 2008. The third case is *Chrisanthis v. United*
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1 *States of America, et al.*, 14-cv-02784-LB.

2 **II. STATEMENT OF RELATIONSHIP OF THE ACTIONS**

3 On January 26, 2007, Plaintiff Anthony Chrisanthis filed a lawsuit in the Northern
4 District of California. The matter was given case no. 07-cv-00566 and was assigned to Judge
5 Alsup. Declaration of Robin M. Wall (“Wall Decl.”), Ex. 1 (Docket Sheet from *Anthony*
6 *Chrisanthis v. R. James Nicholson, et al.*, Case No. 07-cv-00566 WHA). Plaintiff had been
7 employed as a respiratory therapist at the Veterans Administration at Fort Miley in San
8 Francisco, where he alleged that he had been subjected to discrimination, retaliation, and
9 constructive discharge. Wall Decl., Ex. 2 (First Amended Complaint) (“FAC”). Plaintiff named
10 three defendants: Secretary of the Department of Veterans Affairs, Dr. Brian Cason (erroneously
11 named Dr. Brian Casey in the complaint), and Irving Spivey. FAC at 1.

12 On August 30, 2007, the defendants moved the court for an order dismissing plaintiff’s
13 FAC on the ground that Plaintiff had failed to state a claim upon which relief can be granted,
14 and, in the alternative, for an order granting defendants summary judgment on all claims. *See*
15 *Simmons Decl.*, Ex. 1 (Dkt. 24). On September 25, 2007, Judge Alsup granted the defendants’
16 motion to dismiss all claims.

17 On January 8, 2008, Plaintiff filed another complaint, this time in San Francisco Superior
18 Court. The complaint again named as defendants Dr. Brian Cason and Irving Spivey, but
19 omitted the Secretary of the Department of Veterans Affairs. Wall Decl., Ex. 3 (Notice of
20 Removal of *Anthony Chrisanthis v. Dr. Brian Cason, et al.*, Case No. 08-cv-02472 WHA,
21 attaching Summons and Complaint) (“Second Compl.”). The complaint sought damages for
22 negligent infliction of emotional distress, breach of contract, and fraud. *Id.* In this second
23 lawsuit, plaintiff claimed he was forced to take medical disability leave from his employment as
24 a result of defendants’ conduct. Second Compl. at 6. Plaintiff further alleged his medical
25 disability leave included the following terms: “Plaintiff could reapply for his position,” *id.* at 4;
26 “Plaintiff would be rehired after his disability subsided,” *id.* at 5; and that the promise to rehire
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1 Plaintiff was an “inducement to Plaintiff to seek disability leave and not continue Plaintiff’s
2 employment.” *id.* at 5a. Plaintiff alleged that defendants’ refusal to honor this agreement to
3 rehire him caused “extreme emotional distress.” *Id.* at 6.

4 On May 14, 2008, the action was removed to district court, given case no. 08-cv-02472,
5 and assigned to the Honorable Judge Sandra Brown Armstrong. Wall Decl., Ex. 4 (Docket
6 Sheet from *Anthony Chrisanthis v. Dr. Brian Cason, et al.*, Case No. 08-cv-02472 WHA). On
7 June 3, 2008, defendants filed an administrative motion to relate the earliest filed case, no. 07-
8 cv-00566, with the second removed case. On June 6, 2008, Judge Alsup ordered that the cases
9 be related and the second case bear his initials. Wall Decl., Ex. 5 (Related Case Order).

10 On August 4, 2008, defendants moved the court for an order dismissing plaintiff’s
11 complaint on the grounds that the court lacked jurisdiction, the claims were barred by res
12 judicata, and plaintiff had failed to state a claim upon which relief can be granted. On
13 November 7, 2008, Judge Alsup granted the defendants’ motion to dismiss all claims. *See* Wall
14 Decl., Ex. 4 (Dkt. 47).

15 On June 17, 2014, plaintiff filed a new complaint in the Northern District of California.
16 The matter was given case no. 14-cv-02784 and assigned to the Honorable Magistrate Judge
17 Laurel Beeler. Wall Decl., Ex. 6 (Complaint for Damages) (“Third Compl.”). The complaint
18 names as defendants the United States of America and the Department of Veterans Affairs, Sloan
19 D. Gibson, Acting Secretary. Third Compl. at 1. The complaint seeks damages for wrongful
20 discharge, discrimination, retaliation, and infliction of extreme distress and makes express
21 reference to the dismissal of the earliest filed case, no. 07-cv-00566. *Id.* at 2. In this third
22 lawsuit, plaintiff claims that defendants failed to consider plaintiff for reinstatement as a
23 respiratory therapist in 2011 and 2012 and that defendants’ failure to reinstate plaintiff caused
24 extreme emotional distress.
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26 III. DISCUSSION

27 Civil Local Rule 3-12(a) defines related cases as those where “(1) [t]he actions concern
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1 substantially the same parties, property, transaction or event; and (2) [i]t appears likely that there
2 will be an unduly burdensome duplication of labor and expense or conflicting results if the cases
3 are conducted before different Judges.”

4 Under the guidelines set forth by the local rules, plaintiff’s most recently filed lawsuit,
5 *Chrisanthis v. United States of America, et al.*, No. 14-cv-02784, is related to the two earlier-
6 filed lawsuits, *Chrisanthis v. Nicholson, et al.*, No. 07-cv-00566-WHA, and *Chrisanthis v.*
7 *Cason, et al.*, No. 08-cv-02472-WHA. The parties are the same, except that plaintiff has also
8 named the United States of America in the most recent action. Both cases concern the same
9 underlying events—the circumstances underlying the end of plaintiff’s employment with the
10 Veterans Administration and plaintiff’s alleged entitlement to reinstatement. Because the three
11 cases arise out of the same events on behalf of the same plaintiff against the same defendants,
12 assignment to a single judge would be likely to avoid unduly burdensome duplication of labor
13 and expense and/or conflicting results.

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15 Additionally, the familiarity of the Court with the previous cases should reduce
16 significantly the amount of time necessary to identify any claims in the current complaint that are
17 precluded by federal law and/or barred by the doctrine of res judicata.

18 III. CONCLUSION

19 Accordingly, the United States respectfully submits that *Chrisanthis v. United States of*
20 *America, et al.*, No. 14-cv-02784, should be related to *Chrisanthis v. Nicholson, et al.*, No. 07-
21 cv-00566-WHA, and *Chrisanthis v. Cason, et al.*, No. 08-cv-02472-WHA. A proposed order is
22 submitted below.

23 Dated: November 25, 2014

Respectfully submitted,
MELINDA HAAG
United States Attorney

24
25 /s/ Robin M. Wall

26 ROBIN M. WALL
27 Assistant United States Attorney

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[PROPOSED] ORDER

IT IS HEREBY ORDERED THAT:

Pursuant to Civil Local Rule 3-12, Case No. 14-cv-02784-LB is related to Case No. 07-cv-00566-WHA and Case No. 08-cv-02472-WHA. Case No. 14-cv-02784 shall now bear the initials WHA.

IT IS SO ORDERED.

Dated: December 1, 2014.



HON. WILLIAM H. ALSUP
United States District Judge