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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EIDEX FAMILY PARTNERSHIP, L.P.,

No. C-08-1173 EMC

Plaintiff,

v.

**ORDER DENYING DEFENDANT'S
MOTION FOR NISI PRIUS**

CARLVIN JUSTICE,

(Docket No. 15)

Defendant.

In February 2008, Defendant Carlvin Justice removed the instant case from state to federal court, *see* Docket No. 1 (notice of removal), and sought to proceed in forma pauperis. *See* Docket No. 2 (application). Subsequently, in accordance with 28 U.S.C. § 636(c), Mr. Justice consented to proceeding before a magistrate judge for all purposes, including trial. *See* Docket No. 5 (consent).

Judge Chen granted Mr. Justice's application to proceed in forma pauperis but held that subject matter jurisdiction was lacking, and therefore remanded to state court. *See* Docket No. 4 (order). After receiving Judge Chen's order, Mr. Justice sought to withdraw his consent. *See* Docket No. 8 (motion). Judge Chen denied that motion. *See* Docket No. 9 (order). Mr. Justice then made two additional filings, *see* Docket Nos. 10-11 (filings); Judge Chen held that, to the extent Mr. Justice was seeking any relief, that request for relief was denied. *See* Docket No. 12 (order). In response to that order, Mr. Justice asked the general duty judge to reassign the case. *See* Docket No. 13 (filing). The undersigned, as the general duty judge, denied the motion. *See* Docket No. 14 (order). Mr. Justice has now filed another motion in which he appears to seek certain relief from the undersigned (as opposed to Judge Chen).

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Having reviewed Mr. Justice's motion, the Court hereby rules as follows:

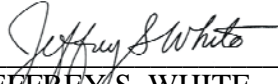
To the extent Mr. Justice asks this Court to reconsider its prior order denying his request for reassignment, the request is DENIED. Mr. Justice has failed to meet the showing required by Civil Local Rule 7-9(b).

To the extent Mr. Justice asks this Court to reconsider the merits of Judge Chen's decision remanding the case for lack of subject matter jurisdiction, that request is also DENIED. Mr. Justice consented to the jurisdiction of a magistrate judge for all purposes, including trial, *see* Docket No. 5 (consent), and therefore this Court has no jurisdiction to review the merits of Judge Chen's decision. In other words, because of Mr. Justice's consent, the governing provision here is § 636(c), not § 636(b).

This order disposes of Docket No. 15.

IT IS SO ORDERED.

Dated: November 24, 2008



JEFFREY S. WHITE
United States District Court Judge