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4 UNITED STATES DISTRICT COURT  
5 NORTHERN DISTRICT OF CALIFORNIA  
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7 ELLIOT HORN,

No. C 08-2546 SI (pr)

8 Plaintiff,

**ORDER OF DISMISSAL**

9 v.

10 ED FOULK; et al.,

11 Defendants.  
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13 The complaint in this action repeats claims made in Case No. C 08-2419 SI. In a letter  
14 filed in the earlier numbered case (docket #4 in C 08-2419), plaintiff wrote that the same  
15 complaint purposely was sent in twice – one from him and one from an acquaintance outside the  
16 hospital – to be sure that it reached the court. That is an ill-advised course of action, because it  
17 increases the expense for him (as a separate filing fee is owed for every case filed), delays the  
18 consideration of his case by increasing the overall workload at the court, and may cause limits  
19 on his ability to proceed as a pauper in future cases, see 28 U.S.C. § 1915(g).

20 The complaint is frivolous because it is duplicative. See Cato v. United States, 70 F.3d  
21 1103, 1105 n.2 (9th Cir. 1995); Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988)  
22 (duplicative or repetitious litigation of virtually identical causes of action is subject to dismissal  
23 under 28 U.S.C. § 1915 as malicious). The court must dismiss an in forma pauperis action at any  
24 time if it determines that the action "is frivolous or malicious." 28 U.S.C. § 1915(e)(B)(I).  
25 Accordingly, this action is DISMISSED with prejudice. The clerk shall close the file.

26 IT IS SO ORDERED.

27 Dated: September 29, 2008

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SUSAN ILLSTON  
United States District Judge