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**NOT FOR PUBLICATION**  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ISAAC KAVALAN,

No. C 13-00162 JSW

Plaintiff,

**ORDER DENYING SECOND EX  
PARTE APPLICATION TO  
VACATE THE ORDER AND  
JUDGMENT OF DISMISSAL OR,  
IN THE ALTERNATIVE, FOR  
LEAVE TO AMEND**

v.

ATTORNEY NIKKI CLARK, and  
COMMISSIONER THOMAS J. NIXON, et  
al.,**(Docket No. 44)**Defendants.  

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This matter comes before the Court upon consideration of the ex parte application to vacate the order and judgment of dismissal or, in the alternative, for leave to amend filed by Plaintiff, Isaac Kavalan (“Mr. Kavalan”). On April 16, 2013, the Court granted Defendants’ motions to dismiss and it concluded that it lacked jurisdiction over this matter. The Court also found that even if it had jurisdiction, Mr. Kavalan had failed to state a claim against the named defendants based on the principles of quasi-judicial and judicial immunity. (Docket No. 32.) On April 25, 2012, Mr. Kavalan moved to vacate the judgment, pursuant to Federal Rules of Civil Procedure 60(b)(1) and 60(b)(4) and, in the alternative, asked for leave to amend his complaint to name the Superior Court of the State of California, Regina Thomas and Phillip Montes.

On April 30, 2013, the Court granted, in part, and denied, in part, that motion. The Court denied the motion to vacate the judgment to the extent it asked to vacate the order dismissing the claims against Commissioner Nixon and Ms. Clark. The Court did, however,

1 grant Mr. Kavalan leave to amend his complaint to name Ms. Thomas and Mr. Montes as  
2 Defendants. (*See* Docket No. 43.)

3 On May 2, 2013, Mr. Kavalan filed a second *ex parte* motion to vacate the Order entered  
4 on April 30, 2013, and he again asks the Court to revisit its decision to dismiss the claims  
5 against Commissioner Nixon and Ms. Clark, and asks for leave to amend his claims against  
6 those Defendants. For the reasons previously stated in the Order granting the motion to dismiss,  
7 and in the Order denying the first *ex parte* motion for relief from judgment, the Court DENIES  
8 Mr. Kavalan's second *ex parte* motion.

9 If Mr. Kavalan wishes to file an amended complaint on the terms set forth in the Court's  
10 April 30, 2013 Order, he may do so by May 24, 2013. If Mr. Kavalan does not file an amended  
11 complaint by that date, the Court shall dismiss the case with prejudice and shall enter judgment.

12 The Court again advises Mr. Kavalan that the Handbook for Pro Se Litigants, contains  
13 helpful information about proceeding without an attorney, is available through the Court's  
14 website or in the Clerk's office. The Court also advises Mr. Kavalan that he also may wish to  
15 seek assistance from the Legal Help Center. Mr. Kavalan may call the Legal Help Center at  
16 415-782-9000, extension 8657, or sign up on the 15th Floor of the Courthouse, Room 2796, for  
17 a free appointment with an attorney who may be able to provide basic legal help, but not legal  
18 representation.

19 **IT IS SO ORDERED.**

20 Dated: May 8, 2013

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23 JEFFREY S. WHITE  
24 UNITED STATES DISTRICT JUDGE  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
4

5 ISAAC KAVALAN,

Case Number: CV13-00162 JSW

6 Plaintiff,

**CERTIFICATE OF SERVICE**

7 v.

8 ATTORNEY NIKKI CLARK et al,

9 Defendant.  
10 \_\_\_\_\_ /

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.  
12 District Court, Northern District of California.

13 That on May 8, 2013, I SERVED a true and correct copy(ies) of the attached, by placing  
14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
15 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office  
16 delivery receptacle located in the Clerk's office.

17 Isaac Kavalan  
18 5622 Buchanan Place  
19 Fremont, CA 94538

20 Dated: May 8, 2013



21 Richard W. Wieking, Clerk  
22 By: Jennifer Ottolini, Deputy Clerk  
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