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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN SHEK,

Plaintiff,

v.

CHILDREN'S HOSPITAL & RESEARCH
CENTER OF OAKLAND, et al.,

Defendants.

No. C 13-02017 WHA

**ORDER DENYING
PENDING MOTIONS AND
VACATING HEARING**


An August 26 order dismissed this action in its entirety on the ground of *res judicata* (Dkt. No. 90). Since then, *pro se* plaintiff John Shek has filed a motion for reconsideration, a motion for relief from judgement under Rule 60, a motion to amend the judgment under Rule 59, and a motion for leave to file an amended complaint (Dkt. Nos. 93–94, 97–98). Although the motions are voluminous and largely incomprehensible, Mr. Shek's basic points are that 1) the related 12-4517 action was not resolved on the merits, 2) “[t]here is reason to doubt the quality, extensiveness or fairness of procedures in . . . [the 12-4517] litigation,” and 3) Mr. Shek believes he should win on the merits. As to the first point, Mr. Shek is incorrect. His claims for relief in the 12-4517 were dismissed on multiple merits grounds, including applicable statutes of limitations, failure to state a claim, and preemption. *Shek v. Children's Hosp. Research Ctr. of Oakland*, No. C. 12-4517 WHA, 2012 WL 6001097, at *2–5 (N.D. Cal. November 30, 2012). As to the second point, Mr. Shek does not provide any cognizable basis for questioning the procedures used in the 12-4517 action and his pending appeal of that action is irrelevant. As for

1 the third point, Mr. Shek's belief that he has amassed "sufficient evidence[]" of discrimination
2 neither changes the disposition of the 12-4517 action nor prevents the application of *res judicata*
3 in this action. Accordingly, Mr. Shek's various motions seeking reconsideration of the judgment
4 in this action are **DENIED**. The October 17 hearing on these motions is **VACATED**.

5 Mr. Shek has also filed a separate motion for reconsideration of an order denying him *in*
6 *forma pauperis* status on appeal. Earlier in this action, Mr. Shek moved to disqualify the
7 undersigned judge. The disqualification motion was decided by Judge Edward Chen, who
8 concluded that Mr. Shek's objections were baseless. The order denying Mr. Shek *in forma*
9 *pauperis* status on appeal held that his appeal of the disqualification order appeared to be
10 frivolous (Dkt. No. 66 at 2). Mr. Shek now moves for reconsideration on the ground that he
11 cannot afford to pay the filing fee for his appeal. Mr. Shek does not, however, provide any
12 reason to question the conclusion that his appeal is frivolous. Accordingly, there is no basis for
13 reconsideration and the motion is **DENIED**.

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16 **IT IS SO ORDERED.**

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18 Dated: September 25, 2013.

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21 WILLIAM ALSUP
22 UNITED STATES DISTRICT JUDGE
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