

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN SHEK,

No. C 13-02017 WHA

Plaintiff,

v.

CHILDREN'S HOSPITAL & RESEARCH
CENTER OF OAKLAND, et al.,**ORDER SETTING HEARING ON
MOTION TO DISMISS, DENYING
MOTION TO VACATE CASE
MANAGEMENT CONFERENCE,
AND DENYING IFP STATUS ON
APPEAL**Defendants.

In June, defendants filed a motion to dismiss (Dkt. No. 15). After the action was reassigned to the undersigned judge in July, defendants properly re-noticed the motion to dismiss for August 22 (Dkt. No. 25). Plaintiff John Shek subsequently filed a motion to disqualify the undersigned judge. The motion to dismiss was stayed pending resolution of the motion to disqualify. Mr. Shek also moved to vacate an August 22 case management conference on the grounds that his motion to disqualify was pending (Dkt. No. 51).

The motion to disqualify was assigned to Judge Edward Chen, who denied the motion on August 5 (Dkt. No. 56). On August 6, Mr. Shek filed a motion for reconsideration of Judge Chen's ruling, and on August 9 Mr. Shek filed a notice of appeal of Judge Chen's ruling (Dkt. No. 58). On August 12, Judge Chen denied the motion for reconsideration because it lacked any "cognizable basis" and because Mr. Shek's allegations therein were "factually baseless" (Dkt. No. 58 at 2).

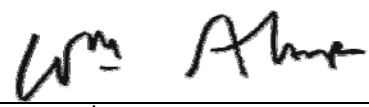
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Shek moves for leave to proceed *in forma pauperis* on his appeal of Judge Chen’s order denying the motion to disqualify. Following review of Mr. Shek’s motion for reconsideration and in light of Judge Chen’s ruling that Mr. Shek’s objections are baseless, the appeal appears to be frivolous. Accordingly, the motion for leave to proceed *in forma pauperis* on appeal is **DENIED**.

In order to get this action back on track in the district court, defendants’ motion to dismiss (Dkt. No. 15) shall be heard on **AUGUST 22 AT 8:00 A.M.** Because the motion to disqualify has now been decided, Mr. Shek’s motion to vacate the August 22 case management conference is **DENIED AS MOOT**.

IT IS SO ORDERED.

Dated: August 14, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE