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

JASON NUSBAUM,
Plaintiff,

v.

JOSHUA CANNON, et al.,
Defendants.

Case No. [16-cv-06264-CRB](#)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE TO
REFILING WITHIN THE
APPLICABLE STATUTE OF
LIMITATIONS**

Jason Nusbaum filed this civil rights complaint in late 2016, alleging among other things an unconstitutional arrest and unlawful use of force by the Hayward Police Dept. Nusbaum's attorneys withdrew from the case on July 11, 2017. Dkt. 31. Since then, Nusbaum has been unable to find legal representation, and has had difficulty proceeding pro se, failing to comply with at least two discovery deadlines. See dkts. 33, 40, 42. The Court granted Nusbaum's request to postpone a status conference originally scheduled for Aug. 25, 2017, to give him time to find a new lawyer. Dkt. 37. The Court attempted to hold a status conference on Oct. 27, allowing Nusbaum to appear by telephone, but Nusbaum was unable to properly connect via the telephonic system. Dkt. 42. The Court rescheduled the status conference for Nov. 9, ordering Nusbaum to appear in person. Dkt. 42. Nusbaum did not appear. Dkt. 43. Subsequently, he moved the Court for another continuance. Dkt. 44. The Court granted this request, stating that it would dismiss the case if Nusbaum did not appear on Dec. 15. Dkt. 45. Nusbaum again failed to appear.

While the Court is sympathetic to the difficulties Nusbaum has had in prosecuting his case, it must also consider judicial efficiency and fairness to the opposing parties. The Court therefore **DISMISSES** the case for failure to prosecute without prejudice to refile

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within the applicable statute of limitations. Fed. R. Civ. P. 41(b). This does not operate as an adjudication on the merits. Once Nusbaum is ready to go forward with his case, he may file a new complaint.

The Court encourages Nusbaum to continue seeking assistance from the pro se help desk, and refers him to the Northern District of California’s pro se handbook. See Northern District of California, [Representing Yourself in Federal Court: A Handbook for Pro Se Litigants](#) at 70 (2017), <https://www.cand.uscourts.gov/prosehandbook>.

IT IS SO ORDERED.

Dated: Dec. 22, 2017



CHARLES R. BREYER
United States District Judge