

1 **E-Filed 5/8/2007**

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8 NOT FOR CITATION

9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12 DENNIS DUANE WEBB,

13 Plaintiff,

14 v.

15 A. SCHWARZENEGGER, Governor, et al.

16 Defendants.

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Case Number C 07-2294 JF

ORDER¹ RE MOTION THAT THE
COURT SCREEN PLAINTIFF'S
COMPLAINT

[re: docket no. 2]

19 On February 6, 2007, Plaintiff Dennis Duane Webb, a prisoner incarcerated at San

20 Quentin State Prison, filed a complaint in Marin County Superior Court seeking injunctive and

21 declaratory relief stating that officials within the Bureau of Prisons had violated his constitutional

22 rights and the Americans with Disabilities Act by providing him with inadequate medical care.

23 On April 27, 2007, Defendants removed the action to this Court and moved that the Court screen

24 the complaint under 28 U.S.C. § 1915A. That section provides:

25 (a) Screening.--The court shall review, before docketing, if feasible or, in any

26 event, as soon as practicable after docketing, a complaint in a civil action in which

27 a prisoner seeks redress from a governmental entity or officer or employee of a

28 governmental entity.

¹ This disposition is not designated for publication and may not be cited.

1 (b) Grounds for dismissal.--On review, the court shall identify cognizable claims
or dismiss the complaint, or any portion of the complaint, if the complaint--

2 (1) is frivolous, malicious, or fails to state a claim upon which relief may
be granted; or

3 (2) seeks monetary relief from a defendant who is immune from such
relief.

4 (c) Definition.--As used in this section, the term "prisoner" means any person
incarcerated or detained in any facility who is accused of, convicted of, sentenced
5 for, or adjudicated delinquent for, violations of criminal law or the terms and
conditions of parole, probation, pretrial release, or diversionary program.

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7 Defendants assert that the relief sought is barred because such relief should be sought in one of
8 four pending class-actions in which Plaintiff is a member of the class.

9 Having considered the motion, the Court adopts the following briefing schedule: Plaintiff
10 shall file any opposition to the dismissal of this action on or before May 22, 2007. Defendants
11 shall file any reply on or before May 29, 2007.² After the Court has received those filings, it will
12 determine whether oral argument is appropriate.

13 Defendants have waived their right to reply to the complaint under 42 U.S.C. § 1997e(g).
14 Defendants request that, if the Court does not dismiss the complaint, they be allowed to file a
15 collective responsive pleading within sixty days of the service of the last defendant. That request
16 will be granted.

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18 IT IS SO ORDERED.

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20 DATED: May 8, 2007

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23 JEREMY FOGEL
United States District Judge

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28 ² The parties should abide by the page counts articulated in Civ. L.R. 7-3.

