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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10  
11 WILLIAM L. NIBLE,

12 Plaintiff,

13 v.

14 FINK, et al.,

15 Defendant.

Case No.: 3:16-cv-02849-BAS-RBM

**ORDER DENYING:**

**1. MOTION FOR DECLARATORY  
JUDGMENT [Doc. 35]; and**

**2. REQUEST FOR HEARING DATE  
[Doc. 37].**

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18 Before the Court now is Plaintiff WILLIAM L. NIMBLE, a state prisoner  
19 proceeding *in pro per*, having filed a “Motion for Declaratory Judgment” (doc. 35) and a  
20 corresponding Request for Hearing (doc. 37). Plaintiff seeks a declaratory judgment that  
21 (1) California State prisoners have a liberty interest protected by the Fourteenth  
22 Amendment in the grievance procedures established in the California Code of Regulations,  
23 Title 15, Article 8, and (2) prison administrative staff have a legal duty to process prisoner’s  
24 grievances as defined by California law and the Prison Litigation Reform Act, 42 U.S.C. §  
25 1997(e)(a).

26 Plaintiff filed the instant Motion on September 28, 2018. (Doc. 35.) The Motion  
27 contains no factual allegations, only legal authorities which purportedly support the legal  
28 conclusions set forth in the Motion. Plaintiff subsequently filed a Second Amended

1 Complaint on October 23, 2018, which Defendants have not yet answered. (Doc. 46.)

2 **I. PLAINTIFF'S REQUEST FOR A DECLARATORY JUDGMENT**

3 The Declaratory Judgment Act ("DJA") provides: "In a case of actual controversy  
4 within its jurisdiction ... any court of the United States ... may declare the rights and other  
5 legal relations of any interested party seeking such declaration, whether or not further relief  
6 is or could be sought." 28 U.S.C. § 2201(a). However, it does not authorize this Court to  
7 issue an advisory opinion regarding a defendant's alleged violation of a federal statute.  
8 "[T]he federal courts established pursuant to Article III of the Constitution do not render  
9 advisory opinions." *United Public Workers of American (C.I.O.) v. Mitchell*, 330 U.S. 75,  
10 89. The DJA does not grant litigants an absolute right to a legal determination. *Zemel v.*  
11 *Rusk*, 381 U.S. 1 (1965). In fact, the court may, after a full consideration of the merits,  
12 exercise its discretion to refuse to grant declaratory relief because the state of the record  
13 before the Court is inadequate to support the extent of relief sought. *Nat'l Automatic*  
14 *laundry & Cleaning Council v. Schultz*, 443 F. 2d 689, 703 (D.C. Cir. 1971).

15 At the time this Motion was filed, Plaintiff's First Amended Complaint had been  
16 answered by several named Defendants. (Doc. 26.) Plaintiff has recently filed a Second  
17 Amended Complaint. (Doc. 46.) The factual and legal disputes between the parties are  
18 still being crystallized. Plaintiff filed the instant Motion on September 28, 2018. (Doc.  
19 35.) Plaintiff, without any factual support, seeks declarations from the Court that: (1)  
20 California state prisoners have a liberty interest protected by the Fourteenth Amendment  
21 in the grievance procedures established by the California Code of Regulations, Title 15,  
22 Article 8; and (2) State prison administrative staff has a legal duty to process prisoner's  
23 grievances as defined by state law and the Prison Litigation Reform Act. In the context of  
24 this lawsuit with the record not yet fully developed, Plaintiff's Motion is more  
25 appropriately construed as a request for an advisory opinion, and not as a request for a  
26 judgment. As it is improper for the Court to issue an advisory opinion pursuant to Article  
27 III of the United States Constitution, Plaintiff's Motion for Declaratory Judgment is  
28 **DENIED.** (Doc. 35.)

