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

KENNETH J. SCHMIER,

Plaintiff,

No. C 09-02740 WHA

v.

JUSTICES OF THE CALIFORNIA  
SUPREME COURT, *et al.*,

**ORDER OF DISMISSAL**

Defendants.

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Plaintiff filed this action to challenge Rule 8.1115(a) of the California Rules of Court. This rule precludes citation to unpublished decisions. Plaintiff, a practicing attorney, seeks injunctive relief to bar the enforcement of the rule because he is representing a defendant in a criminal traffic case and he wishes to cite unpublished authority.

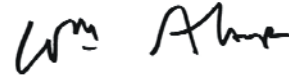
A July 2009 order denied plaintiff's application for a temporary restraining order. It explained that this action is barred by *res judicata* and that, in all respects, plaintiff's First Amendment claim is entirely meritless. Recognizing that this ruling effectively ended the case, the July 2009 order required plaintiff to respond and show cause why the case should not be dismissed. Plaintiff timely responded and argued against dismissal.

This order, however, is unpersuaded. Plaintiff's claim has been found to be barred by *res judicata* and has been rejected on the merits. A further dispositive motion would be an empty exercise, and amendment would be futile. For these reasons and the reasons stated in the July

1 2009 order (Dkt. No. 28), this action is hereby **DISMISSED** with prejudice. Judgment will be  
2 entered.

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4 **IT IS SO ORDERED.**

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6 Dated: August 31, 2009.



7 WILLIAM ALSUP  
8 UNITED STATES DISTRICT JUDGE  
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