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NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

ROSARIO A. FIORANI, JR.,  
Plaintiff,  
vs.  
ALBERT LOWRY; *et al.*,  
Defendants.

No. CV-08-2373-PHX-GMS

**ORDER**

On December 29, 2008 Plaintiff Rosario A. Fiorani Jr. (“Plaintiff”) filed a *pro se* complaint against several Defendants in which he alleges violations of 18 U.S.C. §§ 241–42, 28 U.S.C. § 1343, and 42 U.S.C. § 1983. (Dkt. # 1.) Plaintiff asserts that the Defendants conspired to violate his civil and constitutional rights when they allegedly falsely imprisoned, threatened, and intimidated Plaintiff. (*See id.*) Plaintiff also alleges that Defendants’ conduct forced him to write a fraudulent letter in which he admitted guilt to some unspecified offense. (*See id.*)

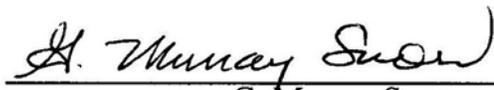
On January 22, 2010, Defendant Seth Berenzweig moved to be dismissed from this action pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6). (Dkt. # 22–23.) First, Defendant brings a 12(b)(2) Motion to Dismiss for lack of personal jurisdiction. (Dkt. # 22.) Defendant also moves to dismiss pursuant to Rule 12(b)(6) on the basis of *res judicata* and due to Plaintiff’s failure to state a claim for which relief can be granted. In addition, Defendant filed a Motion for Sanctions (Dkt. # 39) against Plaintiff to discourage his

1 ongoing pattern of suing the defendants for the same alleged acts over and over in courts  
2 across the country.

3 As of February 24, 2010, Plaintiff has failed to file a response to these Motions. Local  
4 Rule 7.2(c) provides that “[t]he opposing party shall . . . have fourteen (14) days after service  
5 in a civil or criminal case within which to serve and file a responsive memorandum” to a  
6 defendant’s Motion to Dismiss. Local Rule 12.1(b) further provides that a party shall have  
7 thirty days (30) to respond to a Motion to Dismiss for lack of jurisdiction. *See* LRCiv.  
8 12.1(b); 56.1(d). As of February 24, 2010, Plaintiff has not filed a timely responsive  
9 memoranda to Defendant’s Motion to Dismiss, nor has he sought extensions of time to do  
10 so. Under the Local Rules, if a party “does not serve and file the required answering  
11 memoranda . . . such non-compliance may be deemed a consent to the . . . granting of the  
12 motion and the Court may dispose of the motion summarily.” LRCiv. 7.2(i); *see also*  
13 *Ghazali v. Moran*, 46 F.3d 52, 53– 54 (9th Cir. 1995) (holding that district court did not  
14 abuse its discretion in summarily granting defendants’ motion to dismiss pursuant to local  
15 rule where *pro se* plaintiff had time to respond to motion but failed to do so).

16 **IT IS THEREFORE ORDERED** that Plaintiff shall file and serve a responsive  
17 memorandum to Defendant’s Motions **on or before 5:00 p.m. on March 8, 2010**. Should  
18 Plaintiff fail to comply, the Court may deem Plaintiff’s failure to oppose the Motions as a  
19 waiver, and may grant the motions on that basis.

20 DATED this 24th day of February, 2010.

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24 G. Murray Snow  
25 United States District Judge  
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