

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BARON N. BOWER,

Plaintiff,

v.

FOSTER FARMS DAIRY, et al.,

Defendants.

) 1:07cv0917 LJO SMS

) ORDER DIRECTING PLAINTIFF
) TO FILE USM-285 FORMS

Plaintiff Baron N. Bower, appearing pro se and proceeding in forma pauperis, filed the instant employment discrimination action on June 26, 2007.¹ Plaintiff names Foster Farms Dairy, Ron Foster and Dennis Bettencourt as Defendants.

DISCUSSION

A. Screening Standard

Pursuant to 28 U.S.C. § 1915(e)(2), the court must conduct an initial review of the complaint for sufficiency to state a claim. The court must dismiss a complaint or portion thereof if the court determines that the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). If the court determines that the complaint fails to state

¹ Plaintiff filed a similar case, 1:04cv6634 REC DLB, in December 2004. The action was dismissed pursuant to Plaintiff’s request for voluntary dismissal on February 25, 2005.

1 a claim, leave to amend may be granted to the extent that the deficiencies of the complaint can be
2 cured by amendment.

3 In reviewing a complaint under this standard, the Court must accept as true the allegations
4 of the complaint in question, Hospital Bldg. Co. v. Trustees of Rex Hospital, 425 U.S. 738, 740
5 (1976), construe the pro se pleadings liberally in the light most favorable to the Plaintiff, Resnick
6 v. Hayes, 213 F.3d 443, 447 (9th Cir. 2000), and resolve all doubts in the Plaintiff's favor,
7 Jenkins v. McKeithen, 395 U.S. 411, 421 (1969).

8 B. Analysis

9 Plaintiff alleges that he was employed by Defendant Foster Farms until December 2002.
10 He alleges employment discrimination pursuant to Title VII of the Civil Rights Act of 1964, and
11 violations of the Americans with Disabilities Act and Age Discrimination in Employment Act.
12 He also alleges violation of a collective bargaining agreement and contends that he signed an
13 unconstitutional and unconscionable agreement.

14 **ORDER**

15 The complaint appears to state cognizable claims for relief. Accordingly, IT IS HEREBY
16 ORDERED that:

- 17 1. Service is appropriate for the following Defendants:
 - 18 Foster Farms Dairy
 - 19 Ron Foster
 - 20 Dennis Bettencourt
- 21 2. The Clerk of the Court shall send Plaintiff three USM-285 forms, three
22 summonses, an instruction sheet and a copy of the complaint filed on June 26,
23 2007.
- 24 3. Within THIRTY (30) DAYS from the date of this Order, Plaintiff shall complete
25 the attached Notice of Submission of Documents and submit the completed
26 Notice to the Court with the following documents:
 - 27 a. Completed summons;
 - 28 b. One completed USM-285 form for each defendant listed above; and

1 c. four copies of the endorsed complaint filed June 26, 2007.

2 4. Plaintiff need not attempt service on Defendants and need not request waiver of
3 service. Upon receipt of the above-described documents, the Court will direct the
4 United States Marshal to serve the above-named Defendants pursuant to Federal
5 Rule of Civil Procedure 4 without payment of costs.

6 5. The failure to comply with this Order will result in a Recommendation that this
7 action be dismissed.

8 IT IS SO ORDERED.

9 **Dated: June 29, 2007**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE