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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL R. JONES,  
Plaintiff,  
v.  
OFFICE OF WORKERS'  
COMPENSATION PROGRAMS,  
Defendant.

No. 2:11-cv-02799-MCE-CMK

**MEMORANDUM AND ORDER**

On October 24, 2011, Plaintiff Michael R. Jones ("Plaintiff"), proceeding pro se, brought this civil action pursuant to 5 U.S.C. § 522a(g)(1) to remedy alleged violations of the Privacy Act of 1974. Compl., ECF No. 1. Specifically, Plaintiff sought "to enjoin the Office of Workers' Compensation Programs . . . from continuing to improperly withhold Federal Workers' Compensation records" and other agency records. ECF No. 62 at 2. On February 26, 2013, the Court dismissed Plaintiff's Complaint in its entirety but granted Plaintiff leave to amend on his "catch-all damages" claim only. Order, ECF No. 56. On May 13, 2013, the remaining catch-all damages claim was dismissed with prejudice. Order, ECF No. 59. Plaintiff then moved for reconsideration, and his motion was denied. ECF Nos. 62, 73. Thereafter, on August 15, 2013, Plaintiff filed Objections. See ECF No. 83.

1 Plaintiff filed a Notice of Appeal on October 2, 2013. ECF No. 76. On July 1,  
2 2014, this Court concluded that Plaintiff's Objections did not qualify as a "motion" for the  
3 purposes of calculating Plaintiff's appellate deadlines under the Federal Rule of  
4 Appellate Procedure 4(a)(4). Id.; see also ECF No. 80. On July 7, 2014, Plaintiff filed an  
5 Amended Notice of Appeal as to this Court's July 1, 2014, Order regarding his August  
6 15, 2013, Objections filing. ECF No. 85.

7 On August 19, 2014, the Ninth Circuit Court of Appeals issued an Order in which  
8 it dismissed Plaintiff's October 2, 2013, appeal for lack of jurisdiction. See Order, ECF  
9 No. 89 (Ninth Circuit Case No. 13-17088). Thereafter, at the direction of the Ninth  
10 Circuit, this Court processed Plaintiff's July 7, 2014, Amended Notice of Appeal from this  
11 Court's July 1, 2014, Order as a new notice of appeal. Id.; see ECF Nos. 85, 90.  
12 Accordingly, a new appellate case number, 14-16599, was opened.

13 On July 28, 2014, Plaintiff filed a Motion to Strike and Objections to the District  
14 Court's New Notice of Appeal and the Ninth Circuit Court of Appeal's Notice. Mot., ECF  
15 No. 93. In his Motion, Plaintiff objects to this Court's administrative re-filing of his  
16 Amended Notice of Appeal (ECF No. 90) because it was not filed by Plaintiff. Id.  
17 Plaintiff also filed a "Corrected" Second Amended Notice of Appeal. ECF No. 94.

18 Plaintiff's pending Motion to Strike and Objections ask this Court to reconsider the  
19 Ninth Circuit Court of Appeals' August 19, 2014, Order in Case No. 13-17088, ECF  
20 No. 89. Specifically, Plaintiff asks that this Court strike its issuance of a new appellate  
21 case number, which this Court issued at the direction of the Ninth Circuit. See ECF  
22 Nos. 89, 93. The relief requested by Plaintiff is not available from this Court. The  
23 Federal Rules of Appellate Procedure as well as the relevant Circuit Rules govern  
24 motions for reconsideration of Ninth Circuit orders. Plaintiff must adhere to these rules if  
25 he seeks reconsideration of the Ninth Circuit's August 18, 2014, Order in Case  
26 No. 13-17088.<sup>1</sup> See, e.g., Circuit Rule 27-10 (explaining that "[a] party seeking further

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28 <sup>1</sup> It appears that Plaintiff already filed the same motion with the Ninth Circuit. See Dkt. Entry  
No. 14, Court of Appeals Case No. 13-17088.

1 consideration of an order that disposes of the entire case on the merits, terminates a  
2 case, or otherwise concludes the proceedings . . . must comply with the time limits and  
3 other requirements of FRAP 40 and Circuit Rule 40-1”).<sup>2</sup> Therefore, Plaintiff’s pending  
4 Motion, ECF No. 93, is DENIED without prejudice.

5 IT IS SO ORDERED.

6 Dated: September 12, 2014

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MORRISON C. ENGLAND, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT

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<sup>2</sup> This Court notes that, at this time, Plaintiff’s second appeal, Ninth Circuit Case No. 14-16599, is pending before that Court.