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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARREL L. ESPINOSA,
Plaintiff,
v.
PERSEPO.COM, INC., et al.,
Defendants.

No. 2:16-mc-00168-KJM

ORDER

This case is before the court as required by a pre-filing review order issued in a prior case. *See Espinosa v. Marshall et al.*, Case No. 2:06-cv-01192-MCE-GGH (E.D. Cal. June 15, 2007), ECF No. 92. The pre-filing review order declared plaintiff a “vexatious litigant” and required, *inter alia*, plaintiff to submit a declaration certifying that any new litigation is not related to prior cases brought by plaintiff and that the new claims are not frivolous or made in bad faith. *Id.* at 2-3. For the following reasons, the court finds that plaintiff has failed to comply with the pre-filing order. As a result, the court strikes plaintiff’s pre-filing review declaration, ECF No. 3.

In the previous action, the court’s pre-filing review order stated, in relevant part:

(1) Plaintiff shall not initiate any further pro se action in this court unless the pleadings initiating the action are accompanied by a declaration under penalty of perjury that explains why plaintiff believes he has meritorious claims. The declaration shall include a

1 list of all previous actions plaintiff has filed in this or any court,
2 identifying named defendants and all claims made in the previous
3 actions. Plaintiff shall certify that the defendants named in the
4 proposed action have never before been sued by plaintiff, or
5 alternatively that any claims against previously sued defendants are
6 not related to previous action[s]. The declaration shall also state that
7 the claims are not frivolous or made in bad faith, and that plaintiff
8 has conducted a reasonable investigation of the facts and the
9 investigation supports his claim(s). Finally, a copy of this order
10 shall be attached to any application. (2) The Clerk shall not file or
11 lodge any action submitted pro se by plaintiff unless it is
12 accompanied by the required declaration and a copy of the instant
order; any such incomplete filings shall be returned to plaintiff
without further action of the court. (3) If plaintiff files a pro se
action accompanied by the required declaration, the Clerk shall
open the matter as a miscellaneous case to be considered by the
General Duty Judge of this court. The judge will issue necessary
orders after making a determination whether the case is in fact
related to a previous case filed by plaintiff, and whether it is non-
frivolous.

13 *Id.* As the pre-filing review order makes clear, plaintiff must list “all previous actions plaintiff
14 has filed in this or any court, identifying named defendants and all claims made in the previous
15 actions.” *Id.* However, plaintiff’s declaration does not list any of plaintiff’s prior cases or
16 identify the named defendants or claims made in those cases. Espinosa Decl., ECF No. 3. As a
17 result, the court cannot make a determination “whether the case is in fact related to a previous
18 case filed by plaintiff,” as required by the pre-filing review order.

19 Accordingly, the court finds that plaintiff has failed to comply with the pre-filing
20 review order and STRIKES plaintiff’s pre-filing declaration. The court GRANTS plaintiff
21 fourteen (14) days from the date of this order to file a declaration that complies with the pre-filing
22 review order. If plaintiff fails to submit a declaration that complies with the pre-filing review
23 order, plaintiff is warned that the case may be subject to dismissal or other appropriate sanction.

24 IT IS SO ORDERED.

25 DATED: October 31, 2016.

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28 UNITED STATES DISTRICT JUDGE