

1 and supply a declaration supporting the application stating:
2 (1) that the matters asserted in the new action have not
3 previously been raised by him, as an attorney or a party, and
4 disposed of on the merits by any court, state or federal; (2)
5 that the claims are not frivolous or made in bad faith; and
6 (3) that Giannini has conducted a reasonable investigation of
the facts and certifies that they are accurate. Failure to
comply with any of these conditions shall be sufficient
grounds to deny the application or dismiss the action, and any
violation of this injunction may be treated as contempt of
court.

7 Paciulan v George, 38 F Supp 2d 1128, 1147 (ND Cal 1998).

8 Giannini attaches to his application a complete copy of
9 the court's pre-filing order in Paciulan and a declaration in
10 support of his application. Giannini's declaration fails, however,
11 to satisfy the requirements of the Paciulan pre-filing order.

12 The declaration fails to state any new matters that
13 Giannini has not previously raised as an attorney or a party and
14 that no state or federal court has disposed of on the merits. See
15 id. The passage of time and development of the law in unrelated
16 areas do not alter the decision reached by the Ninth Circuit in
17 Giannini v Real, 911 F2d 354 (9th Cir 1990) (dismissing Giannini's
18 claims and upholding as constitutional the California State Bar's
19 attorney admission requirements). There has been no change in fact
20 or law to create a new, previously-unasserted claim.

21 Furthermore, the pre-filing order in Paciulan requires
22 Giannini to state that his claims are not frivolous or made in bad
23 faith. See id. Giannini asserts that his new claim is "not
24 frivolous" and "not presented in bad faith." Giannini Declaration
25 at ¶ 16. The record belies Giannini's assertion. The court denied
26 Giannini's application for leave to file an action filed in March
27 2010 because Giannini's claims were legally frivolous and filed for
28 an improper purpose. Doc #98. Similarly, Giannini's current

1 application fails to present new facts or legal claims that would
2 permit the undersigned to find that the new claim is not legally
3 frivolous.

4 For the reasons explained above, the court finds that
5 Giannini has failed to meet the requirements of the Paciulan
6 pre-filing order. Giannini's application for leave to file a
7 complaint for injunctive and declaratory relief invalidating
8 California sister-state bar admission rules and the California bar
9 examination for experiences attorneys is accordingly DENIED.

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11 IT IS SO ORDERED.

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14 VAUGHN R WALKER
15 United States District Chief Judge
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