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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 JOSEPH R GIANNINI, No C 98-1201 VRW

Applicant.

ORDER

By application dated December 17, 2010, Joseph R Giannini applies for leave to file an action regarding attorney admission requirements in California. Specifically, Giannini seeks injunctive and declaratory relief invalidating California's sister-state bar admission rules and the requirement for passage of the California bar examination for experienced attorneys.

Giannini applies for leave to file this action pursuant to a pre-filing order issued by the court in Paciulan v George,

23 98-CV-1201 SI. The Paciulan pre-filing order states:

> Joseph R Giannini is here by ENJOINED from filing any further actions, either as an attorney or a party, in the United States District Court for the Northern District of California, regarding admission to and the regulation of the practice of law in the State of California without first obtaining leave of the Chief Judge of this court. If Giannini wishes to file further actions regarding admission to and the regulation of practice of law in California, Giannini must attach a copy of this order to his application for leave to file such actions

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and supply a declaration supporting the application stating: (1) that the matters asserted in the new action have not previously been raised by him, as an attorney or a party, and disposed of on the merits by any court, state or federal; (2) that the claims are not frivolous or made in bad faith; and (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.

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

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

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

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

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

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

Mulch

IT IS SO ORDERED.

VAUGHN R WALKER United States District Chief Judge