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

JESUS AGUIRRE,

No. C-06-4024 MMC

Plaintiff,

**ORDER DISMISSING ACTION; DENYING
APPLICATION TO PROCEED IN FORMA
PAUPERIS AS MOOT**

v.

CITY AND COUNTY OF SAN FRANCISCO,

Defendant

Before the Court is plaintiff Jesus Aguirre's complaint and application to proceed in forma pauperis, both filed June 28, 2006. Where a plaintiff seeks to proceed in forma pauperis, a district court may dismiss the action pursuant to 28 U.S.C. § 1915 if the complaint "merely repeats pending or previously litigated claims." See Cato v. United States, 70 F. 3d 1103, 1105 n. 2 (9th Cir. 1995) (quoting Bailey v. Johnson, 846 F. 2d 1019, 1021 (5th Cir. 1988)).

In the instant case, plaintiff alleges that on March 31, 2000, when he was employed by defendant, his back was injured and he was placed on temporary disability. Thereafter, plaintiff alleges, when he was able to return to work with reasonable accommodation, defendant refused to allow plaintiff to return to work, thus violating the Americans with Disabilities Act. This claim, however, was previously raised in an earlier-filed action, specifically, Aguirre v. City and County of San Francisco, C-04-2556 PJH, in which action


1 the district court dismissed plaintiff's discrimination claims as "time-barred under the statute
2 of limitations." (See Order Dismissing Case, filed September 10, 2004, in C-04-2556.)

3 Accordingly, the above-titled action is hereby DISMISSED pursuant to 28 U.S.C.
4 § 1915(e)(2). In light of the dismissal, plaintiff's application to proceed in forma pauperis is
5 DENIED as moot.

6 The Clerk shall close the file.

7 **IT IS SO ORDERED.**

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9 Dated: June 30, 2006


MAXINE M. CHESNEY
United States District Judge

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