

United States District Court
For the Northern District of California

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

JONATHAN LINDER,

No. C -13-01934(EDL)

Plaintiff,

**ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S MOTION
FOR REARGUMENT**

v.

THE CITY OF EMERYVILLE, ET AL.,

Defendant.

Plaintiff has filed a "Motion for Reargument" (Docket No. 48) related to the Court's October 11, 2013 order granting Defendants' Motion to Dismiss (Docket No. 28). The motion, which the Court will interpret as a motion for reconsideration, is premised on Plaintiff's inability to properly oppose the motion to dismiss because of problems with the Court's electronic filings systems, ECF and Pacer. Plaintiff's motion fails to comply with Civil Local Rule 7-9(a), which requires a party to move for leave to file a motion for reconsideration before filing the actual reconsideration motion. Plaintiff has not sought leave to file a reconsideration motion.

The Court also notes that as a pro se litigant, Plaintiff had to seek leave of court in order to use ECF. Plaintiff did so twice. The Court denied the first motion for permission for electronic filing without prejudice on July 18, 2013 (Docket No. 16) and granted the second motion on August 1, 2013 (Docket No. 20). In his motion for permission to file electronically, Plaintiff affirmed that he had access to a computer, daily access to an e-mail account in order to check for court filings, and the ability to create and read electronic files. Docket No. 19. Plaintiff has access to the ECF help desk. Therefore, his problems with ECF are not an excuse for his failure to respond to motions or comply with court deadlines. The Court will not grant a motion for reconsideration on the basis of problems with electronic filing, and cautions Plaintiff not to seek leave to file a reconsideration

1 motion without strictly observing the requirements of Local Rule 7-9.

2 Plaintiff's Motion for Reargument is HEREBY denied without prejudice.

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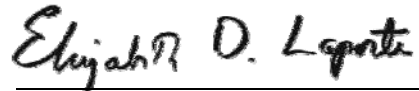
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6 **IT IS SO ORDERED.**

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8 Dated: March 18, 2014

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ELIZABETH D. LAPORTE

United States Chief Magistrate Judge

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