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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DUANE ROBERSON,

Plaintiff,

vs.

ST. ANTHONY FOUNDATION,

Defendant.

Case No: C 10-4576 SBA

**ORDER DENYING PLAINTIFF'S
MOTION FOR LEAVE TO FILE
THIRD AMENDED COMPLAINT
AND MOTION OF
UNREASONABLE BURDEN**

Docket 22, 23

This is a pro se employment discrimination action brought by Plaintiff Duane Roberson against Defendant St. Anthony Foundation. On November 2, 2010, the Court granted Plaintiff's application to proceed in forma pauperis, but dismissed the Complaint with leave to amend. Dkt. 9. Plaintiff filed a First Amended Complaint on November 22, 2010, which was followed by motion to file a Second Amended Complaint on January 24, 2011. Dkt. 10, 13, 14. Plaintiff also requested a waiver of PACER access fees. Dkt. 12. On March 16, 2011, the Court granted Plaintiff's motion for leave to amend and ordered the United States Marshal to effect service of the Second Amended Complaint on Defendant. Dkt. 18. In the same order, the Court denied Plaintiff's motion for a waiver of PACER access fees.

On March 18, 2011, Plaintiff filed a one-sentence long motion for leave to file a Third Amended Complaint. Plaintiff's reason for seeking to file yet another pleading is "to make some corrections to the information regarding the document layout." Dkt. 23. However, Plaintiff's motion does not comport with Civil Local Rule 7-2, which sets forth the procedural requirements for noticed motions filed in this Court. The failure to comply

1 with a district court's local rules constitutes grounds for summary denial of a motion. See
2 Grove v. Wells Fargo Fin. Cal., Inc., 606 F.3d 577, 582 (9th Cir. 2010) (upholding district
3 court's denial of motion to tax costs which was not in compliance with the court's local
4 rules). Although Plaintiff is representing himself in this action, he is nevertheless obligated to
5 follow the same rules as represented parties. See Ghazali v. Moran, 46 F.3d 52, 54 (9th Cir.
6 1995) ("Although we construe pleadings liberally in their favor, pro se litigants are bound by
7 the rules of procedure.") (per curiam); King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987)
8 (same). Self-representation is not an excuse for non-compliance with court rules. See
9 Swimmer v. I.R.S., 811 F.2d 1343, 1344 (9th Cir. 1987) ("[i]gnorance of court rules does not
10 constitute excusable neglect, even if the litigant appears pro se.") (citation omitted). In
11 addition, the Court notes that it recently ordered service of the Second Amended Complaint on
12 Defendant. Once Defendant has been served, Plaintiff may meet and confer with Defendant or
13 its counsel regarding his request to file a Third Amended Complaint.


14 Also before the Court is Plaintiff's renewed his motion for a waiver of PACER fees.
15 Dkt. 22. Plaintiff contends that his state disability insurance "[ran] out back in September
16 2010," and therefore, he cannot afford to pay PACER fees. Id. This motion also violates
17 the Local Rules. Before seeking reconsideration of any pre-judgment order, a litigant must
18 first seek leave to file a motion for reconsideration and make the requisite showing under
19 Local Rule 7-9. Plaintiff failed to follow this procedure. In addition, the Court is not
20 persuaded that a waiver of PACER fees is necessary or appropriate in this case. As a pro
21 per litigant, Plaintiff has been served and will continue to be served with copies of orders
22 issued by this Court. Likewise, Defendant, once served, will be required to serve copies of
23 all of its court filings on Plaintiff. As such, Plaintiff will have copies the documents
24 necessary to prosecute this case. In addition, Plaintiff is free to review the docket at the
25 Clerk's Office in Oakland, San Francisco or San Jose. Accordingly,

26 IT IS HEREBY ORDERED THAT Plaintiff's motion for leave to file a Third
27 Amended Complaint and Motion of Unreasonable Burden are DENIED. This Order
28 terminates Docket Nos. 22 and 23.

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IT IS SO ORDERED.

Dated: March 29, 2011


SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 DUANE ROBERSON,
5
6 Plaintiff,

7 v.

8 ST. ANTHONY FOUNDATION et al,
9
10 Defendant.

11 _____/

Case Number: CV10-04576 SBA

CERTIFICATE OF SERVICE

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on March 30, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
16 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
17 located in the Clerk's office.

18 Duane Roberson
19 1912 Ward Street
20 Berkeley, CA 94703

21 Dated: March 30, 2011

Richard W. Wieking, Clerk

By: LISA R CLARK, Deputy Clerk

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