

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID SCOTT PEASLEY,
Plaintiff,
v.
M. SPEARMAN, et al.,
Defendants.

Case No. [15-cv-01769-JSW](#)

**ORDER DENYING MOTIONS FOR
LEAVE TO AMEND AND TO
RECONSIDER; DIRECTING
DEFENDANTS TO RESPOND TO
MOTION FOR STAY**

Re: Dkt. Nos. 399, 400, 404

Plaintiff is a California prisoner proceeding pro se. Defendants have filed a motion for summary judgment on his sole remaining claim (Count 6). Plaintiff has filed an opposition. The reply brief is due on or before November 7, 2022.

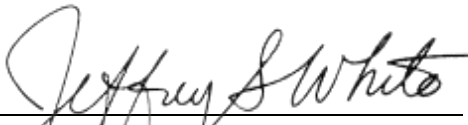
Plaintiff has filed motion to amend the complaint, to reconsider a prior order denying a prior motion for leave to amend, and a motion to stay. Plaintiff has still not submitted a proposed amended complaint. Plaintiff was informed three times recently that his motions for leave to amend were denied because he did not submit a proposed amended complaint. Nevertheless, he has continued to move for leave to amend his complaint without submitting the amended complaint he proposes to file. Without a proposed amended complaint, the Court cannot discern whether his claims are cognizable or leave file the amended complaint should be granted. He cannot continue to do so. No further motion for leave to amend may be filed without a proposed amended complaint. The motion for leave to amend and to reconsider are DENIED.

Plaintiff has filed a motion to stay ruling on the motion for summary judgment. He claims it was not served upon him. The proof of service indicates that various exhibits were served upon Plaintiff by mail, but the motion itself was not; it was simply filed electronically. Plaintiff's opposition responds to various arguments by Defendants, but it is not clear whether or not Plaintiff

1 has had access to the electronically filed motion. On or before November 7, 2022, Defendants
2 shall either explain why the motion was not served upon Plaintiff by mail and whether or not
3 Plaintiff has been able to access the electronically filed documents at his prison, or serve the
4 motion upon Plaintiff by mail, file a proof of such service, and file a stipulation to extend the
5 deadlines for Plaintiff to supplement his opposition.

6 **IT IS SO ORDERED.**

7 Dated: October 27, 2022

8
9 
10 JEFFREY S. WHITE
11 United States District Judge

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
United States District Court
Northern District of California