

1 **** E-filed April 3, 2012 ****

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8 NOT FOR CITATION

9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12 ANTHONY BRODZKI,

No. C11-05299 HRL

13 Plaintiff,

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

14 v.

15 UNITED STATES OF AMERICA,

[Re: Docket Nos. 27, 28]

16 Defendant.

17 _____/

18 On October 31, 2011, Anthony Brodzki filed *in forma pauperis* a civil complaint against the

19 United States of America (“United States” or “government”), seeking \$500 million in damages for

20 alleged harassment and privacy violations.¹ The court dismissed plaintiff’s complaint as frivolous

21 and for lack of subject matter jurisdiction, and entered an order of judgment. Dkt. Nos. 23, 26. After

22 judgment was entered, plaintiff filed two letters to the court, one titled “motion for reconsideration”

23 and the other titled “motion with new information to ask the honorable judge to hear the case.” Dkt.

24 Nos. 27, 28. Both letters request that the court “rehear” plaintiff’s case. Defendant opposed the

25 “motions.” Dkt. No. 29.

26 “No party may notice a motion for reconsideration without first obtaining leave of the court

27 to file the motion.” Civ. L.R. 7-9(a). Plaintiff did not seek leave of court before filing his ostensible

28 motion for reconsideration. Despite this procedural error, and to give the plaintiff the benefit of

¹ In fact, Brodzki filed a separate complaint in this district one day after this action was filed. See C11-05307-HRL, Brodzki v. United States of America. The two complaints are not identical, though they both seek damages for injuries allegedly caused by various government agents. The allegations in the two complaints are equally implausible.

1 liberal construction for pro se filings, the court construes his two letters as one request for leave to
2 file a motion for reconsideration (hereinafter, “motion”). See Haines v. Kerner, 404 U.S. 529, 520-
3 21 (1972) (stating that pro se pleadings should be “liberally construed.”)

4 The moving party in a motion for leave to file a motion for reconsideration must show that:
5 (1) a material difference in fact or law exists from that which was presented to the court, and the
6 party did not know of such fact or law before entry of the order; (2) new material facts or a change
7 of law occurred after the entry of the order; or (3) the court failed to consider material facts or legal
8 arguments presented before entry of the order. See Civ. L.R. 7-9(b).

9 Plaintiff’s motion lacks merit. Not only did Brodzki fail to obtain leave of court before filing
10 his motion for reconsideration as required by Civil Local Rule 7-9(a), he also failed to make his
11 request before entry of judgment. Civil Local Rule 7-9(a) makes clear that motions for
12 reconsideration may only be made before the entry of judgment. See Dkt. No. 26 (entering judgment
13 of dismissal before plaintiff filed his motion). Even if these procedural errors were not present,
14 plaintiff has failed to satisfy the necessary standard for the court to grant leave to file a motion for
15 reconsideration. Plaintiff’s letters to the court fail to offer any of the three grounds for
16 reconsideration. Docket No. 27, the “motion for reconsideration,” is a partially handwritten letter
17 that says plaintiff sent “Form 95” to the FBI, and includes a photocopy of a U.S. Postal Service
18 certified mail receipt. Docket No. 28, the “motion with new information,” is a stream-of-
19 consciousness, largely unintelligible letter that seems to raise completely new and different facts
20 than those raised in the complaint, concerning: (1) the alleged rape that occurred when plaintiff was
21 a child, which was mentioned in his complaint; and (2) the fact that plaintiff and an unnamed police
22 officer “dated several of the same women,” which has no bearing on this case. There is no evidence
23 to suggest that any of the grounds for reconsideration are present here.

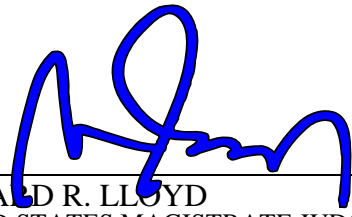
24 Accordingly, the court concludes that plaintiff has raised no facts that would warrant the
25 filing of a motion for reconsideration or the setting aside of this court’s February 6, 2012 order.
26 Plaintiff’s motion is DENIED.

27 **IT IS SO ORDERED.**

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Dated: April 3, 2012



HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

1 **C11-05299 HRL Notice will be electronically mailed to:**

2 James A. Scharf james.scharf@usdoj.gov

3 **Notice will be mailed to:**

4 Anthony Brodzki
5 6900 Herman Jared Drive
6 North Richland Hills, TX 76182

7 **Counsel are responsible for distributing copies of this document to co-counsel who have not
8 registered for e-filing under the court's CM/ECF program.**

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