

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

AMBROSE S. FERNANDEZ, JR.,	)	CIVIL NO. 10-00573 SOM/BMK
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF'S
	)	MOTION FOR SUMMARY JUDGMENT
V.	)	
	)	
DIRECTOR CLAYTON FRANK,	)	
INSPECTOR NINO,	)	
STATE SHERIFF PAUL McINTIRE,	)	
DEPARTMENT OF PUBLIC SAFETY,	)	
DOES 1-10,	)	
	)	
Defendants.	)	
_____	)	

ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

On March 7, 2011, pro se Plaintiff Ambrose S. Fernandez, Jr. ("Fernandez") filed his second motion for summary judgment. See ECF No. 28. This motion for summary judgment concerns three incidents of alleged problems with handicapped parking at the Honolulu International Airport. Fernandez's Complaint, however, asserts claims arising out of efforts to access the Hawaii State Supreme Court law library. This court finds this matter suitable for disposition without a hearing, see Local Rule 7.2(d), and DENIES Fernandez's motion for summary judgment.

A complaint must notify a defendant as to what claims are being brought. Fernandez cannot bring a summary judgment motion for a claim that was not mentioned in the Complaint. Furthermore, the court does not see how all the named Defendants in this action are responsible for the alleged incidents at the

airport. In the summary judgment motion, Fernandez alleges that the Department of Transportation Airports Division ("DOTA") violated the Americans with Disabilities Act ("ADA") and the Americans with Disabilities Act Accessibility Guidelines ("ADAAG"). But Defendants named in the caption are (1) Clayton Frank, former Director of the Department of Public Safety, (2) Inspector Nino, (3) Deputy State Sheriff Paul McIntire, who works at the Hawaii Supreme Court building, and (4) the Department of Public Safety.

The court has previously denied Fernandez summary judgment because Fernandez failed to carry his burden as a movant. See ECF No. 19. Fernandez asserted violations of the ADA and ADAAG, but did not state what provisions were violated or how they were violated. Moreover, Fernandez did not identify materials on file that demonstrated the absence of a genuine issue of material fact. See T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n, 809 F.2d 626, 630 (9th Cir. 1987) (citation omitted).

For the foregoing reasons, this court denies Fernandez's second request for summary judgment, but this order does not preclude a properly supported and timely motion in the future concerning the matters asserted in the Complaint. If Fernandez wishes to bring an motion for the acts that allegedly occurred at the airport, he must file a new Complaint before

bringing a dispositive motion. As stated in the court's Order Denying Motion for Reconsideration, see ECF No. 25, Fernandez is advised to review Local Rule 56.1 for the proper procedures regarding motions for summary judgment.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, April 11, 2011.



/s/ Susan Oki Mollway  
Susan Oki Mollway  
Chief United States District Judge

Fernandez v. Frank, et al., Civ. No. 10-00573 SOM/BMK; ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT.