UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

DAVID THILL, Civil 08-5833 (PJS/JSM)

Plaintiff,

v. **REPORT AND RECOMMENDATION**

THE STATE OF MINNESOTA,

Defendant.

This matter is presently before the Court, on the Court's own initiative, to determine whether Plaintiff has complied with the requirements of an order that was entered in this case on October 30, 2008. (Docket No. 4.) In that prior order, the Court noted that Plaintiff's claims in this case appear to be based on the same facts and law as the claims advanced by Plaintiff in another case pending in this District – Thill v. Olmsted County, Civil No. 08-4612 (PJS/JSM), ("Thill I"). The prior order directed Plaintiff to either (a) amend his complaint in Thill I to include the claims advanced in the present case, or (b) show cause why such an amendment would be impractical.

Plaintiff recently submitted an amended complaint in Thill I, which purportedly includes the claims originally advanced in the present case. The Court has approved that amended complaint, which means that the claims advanced in this case will now be litigated in Thill I, and this case has become redundant. The Court will therefore recommend that this action be summarily dismissed without prejudice. The Court will further recommend that Plaintiff's pending application to proceed in forma pauperis, (Docket No. 2), be denied as moot.

RECOMMENDATION

Based on the foregoing, and all the files, records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's application for leave to proceed in forma pauperis, (Docket No. 2), be DENIED AS MOOT; and

2. This action be summarily DISMISSED WITHOUT PREJUDICE.

Dated: November 25, 2008

s/ Janie S. Mayeron
JANIE S. MAYERON
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by December 15, 2008, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.