

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHIBUEZE C. ANAEME,)	
)	
Plaintiff,)	
vs.)	Case No.: 2:12-cv-01038-GMN-VCF
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	
)	

ORDER

Pending before the Court is the Report and Recommendation of United States Magistrate Judge Cam Ferenbach. (ECF No. 4.) In response, Plaintiff Chibueze C. Anaeme (“Plaintiff”) filed a Motion for Reconsideration. (ECF No. 5.) For the reasons discussed below, the Court will accept in full Judge Ferenbach’s Report and Recommendation to the extent that it is not inconsistent with this Order.

I. BACKGROUND

Plaintiff instituted the instant action on June 19, 2012 when he filed his Motion/Application for Leave to Proceed in forma pauperis. (ECF No. 1.) In Plaintiff’s Complaint, he requests “damages under causes of action within meaning of but not limited to FTCA 28 U.S.C. Sections 1346, 1402, 2401, 2402, 2671 et seq. . . .” (Compl. 31:3-5, ECF No. 1-1.)

Although Plaintiff’s Complaint is difficult to follow, it appears that Plaintiff’s grievance arises from the alleged actions of a law firm in New Mexico. Specifically, Plaintiff alleges that certain attorneys in Albuquerque, New Mexico agreed to represent Plaintiff in an employment discrimination matter. (Compl. ¶ 53.) Plaintiff further alleges that at some point after the termination of that attorney-client relationship, these attorneys created duplicates of Plaintiff’s

1 case file without Plaintiff's authorization. (Compl. ¶¶ 57-58.)

2 As a result of these alleged events, Plaintiff filed the instant Complaint alleging four
3 causes of action: (1) negligence under the Federal Tort Claims Act ("FTCA"); (2) conspiracy
4 under the FTCA; (3) disparate treatment under the FTCA; and (4) intentional infliction of
5 emotional distress under the FTCA. (Compl. ¶¶ 88-114, ECF No. 1-1.)

6 This action was referred to Judge Ferenbach pursuant to 28 U.S.C. § 636(b)(1)(B) and
7 District of Nevada Local Rule IB 1-4. On July 19, 2012, Judge Ferenbach recommended that
8 this Court enter an Order dismissing Plaintiff's Complaint without prejudice and permitting
9 Plaintiff to file an amended complaint within thirty-three (33) days from the date the clerk mails
10 Plaintiff this Order. Specifically, Judge Ferenbach recommended that the Court dismiss
11 Plaintiff's complaint for improper venue, for lack of jurisdiction, and for failure to state a claim.
12 (Report & Recommendation, ECF No. 4.) In response, more than two months later, Plaintiff
13 filed a document styled as a Motion for Reconsideration, which the Court construes as an
14 objection to Judge Ferenbach's Report & Recommendation. (Mot. for Reconsideration, ECF No.
15 5 (requesting reconsideration of the July 19, 2012 order).) In Plaintiff's objection, he states only
16 that "the complaint as filed by plaintiff pro se in aforerecited cause is proper" and that "[t]he
17 aforerecited cause of action was thoroughly and/or extensively investigated by plaintiff over
18 several years prior to initiation of the corresponding litigation." (Mot. to Reconsider 4:5-7.)

19 **II. DISCUSSION**

20 A party may file specific written objections to the findings and recommendations of a
21 United States Magistrate Judge made pursuant to Local Rule IB 1-4. 28 U.S.C. § 636(b)(1)(B);
22 D. Nev. R. IB 3-2.¹ Upon the filing of such objections, the Court must make a de novo
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24 ¹ Rule IB3-2(a) also provides that such objections must be filed "within fourteen (14) days from the date of
25 service of the magistrate judge's ruling." Plaintiff's objection was filed more than two months after the date of
the magistrate judge's ruling. Nevertheless, in light of Plaintiff's pro se status, the Court will still consider
Plaintiff's untimely filed objection.

1 determination of those portions of the Report to which objections are made. Id. The Court may
2 accept, reject, or modify, in whole or in part, the findings or recommendations made by the
3 Magistrate Judge. 28 U.S.C. § 636(b)(1); D. Nev. IB 3-2(b).

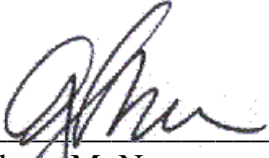
4 In this case, having reviewed Magistrate Judge Ferenbach's Report and Recommendation
5 and conducted a de novo review, the Court agrees that Plaintiff's Complaint should be dismissed
6 without prejudice.

7 **III. CONCLUSION**

8 **IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 4) be
9 **ACCEPTED** in full, to the extent that it is not inconsistent with this Order.

10 **IT IS FURTHER ORDERED**, if Plaintiff is able to cure the defects identified in
11 Magistrate Judge Ferenbach's Report and Recommendation, Plaintiff shall file an amended
12 complaint **by August 19, 2013**. Failure to file an amended complaint by that date will result in
13 **DISMISSAL** of Plaintiff's Complaint **with prejudice**.

14 **DATED** this 16th day of July, 2013.

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19 Gloria M. Navarro
20 United States District Judge
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