

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**BRIAN JOHNSON,**

**Plaintiff,**

v.

**No. CIV-16-0011 LAM/GJF**

**SIERRA COUNTY BOARD OF  
COUNTY COMMISSIONERS, CURTIS CHERRY,  
GLENN HAMILTON, and JOE BACA,**

**Defendants.**

**ORDER DENYING WITHOUT PREJUDICE MOTION FOR LEAVE  
TO FILE THIRD AMENDED COMPLAINT [Doc. 74]**

**THIS MATTER** is before the Court on Plaintiff's *Amended Motion for Leave to File Third Amended Complaint and Reply to Defendants' Objection for Leave to File Third Amended Complaint (Doc. 73) (Doc. 74)*, filed on January 23, 2017. The Court finds that this motion should be denied without prejudice for several reasons. First, Plaintiff's amended motion to file a Third Amended Complaint [Doc. 74] is improperly filed as both a reply to his first motion to file a Third Amended Complaint [Doc. 72] **and** as a new motion. This violates the Court's Administrative Order 92-88, which provides that practitioners shall "submit a separate pleading for each matter upon which adjudication or a ruling of the Court is sought," and shall "submit, in the case of responsive pleadings, a separate pleading addressing each motion or other pleading to which a response is made." Second, Plaintiff's amended motion to file a Third Amended Complaint fails to comply with the Court's Local Rule 7.1(a) because it "omits recitation of a good-faith request for concurrence" and, therefore, it "may be summarily denied."

Instead, Plaintiff merely states: “Opposing counsel not immediately available [sic] for Response.” [Doc. 74 at 4]. The Court does not consider this statement a “recitation of a good-faith request for concurrence” because it does not state when and how Plaintiff’s counsel contacted counsel for Defendants or how much time they were given to respond. Finally, this motion fails to comply with the Court’s Local Rule regarding “Form of Documents” because the majority of the motion is typed using a font smaller than 12 pitch. See D.N.M. LR-Civ. 10.1 (“The typewritten text of all documents must be at least 12 pitch.”). For these reasons, the Court will deny this motion without prejudice, and Plaintiff is granted leave to re-file in compliance with the rules set forth above.

**IT IS THEREFORE ORDERED** that, for the reasons stated above, Plaintiff’s *Amended Motion for Leave to File Third Amended Complaint and Reply to Defendants’ Objection for Leave to File Third Amended Complaint (Doc. 73) (Doc. 74)* is **DENIED without prejudice** with leave to re-file as set forth above and **no later than Tuesday, February 7, 2017**.

**IT IS SO ORDERED.**

  
**LOURDES A. MARTÍNEZ**  
**UNITED STATES MAGISTRATE JUDGE**