

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

DERRICK ANDERSON

Plaintiff,

v.

DECISION AND ORDER

12-CV-6039

R.N. SERENA BUIE, et. al.,
Defendant(s).

The Court is in receipt of two motions made by pro se plaintiff Derrick Anderson (hereinafter "plaintiff"). First is a motion for leave to file an amended complaint (Docket # 77), and second is a motion to compel discovery (Docket # 82). Both motions are **dismissed without prejudice**, for the reasons stated below.


Motion to Amend: Plaintiff filed a motion for leave to amend pursuant to Rule 15(a) and 19(a) of the Federal Rules of Civil Procedure, seeking to add a party, Commissioner Anthony J. Annucci, and new legal claims. See Motion to Amend Complaint (Docket # 77). Plaintiff did not include an unsigned copy of the proposed amended pleading as an exhibit, which is required under Local Rule of Procedure 15(a). Plaintiff is directed to refile his proposed amended complaint in compliance with the Local Rules.

Motion to Compel Discovery: Defendants filed mandatory disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure on April 27 and 29, 2016. See Rule 26 Disclosures (Docket ## 73, 76). These disclosures total hundreds of pages. Plaintiff thereafter filed the instant motion to compel on May 19, 2016, asserting that defendants stated in their initial disclosures that

Rule 26(a)(1)(A)(iii) is "not applicable," and seeking to "compel a further response in view of the 'un-clear' meaning of the term 'not applicable,'" and the "production of various initial disclosures that [plaintiff] alleged are relevant to the claims asserted in his complaint." See Plaintiff's Motion to Compel (Docket # 82).

Rule 26(a)(1)(A)(iii) requires parties to turn over "a computation of each category of damages claimed by the disclosing party" Fed. R. Civ. P. 26(a)(1)(A)(iii). Defendants' statement that this Rule is not applicable needs no further explanation: defendants have not claimed any damages, and the Rule does not therefore apply to their disclosures. Plaintiff's motion is therefore **dismissed**. Counsel for the defendants is aware of their ongoing responsibility under the Rules to disclose documents to plaintiff. Should plaintiff find that there are documents that he has not received that he believes he is entitled to, he may refile a motion to compel detailing what he would like to be disclosed to him.

SO ORDERED.


Jonathan W. Feldman
United States Magistrate Judge

Dated: June 1, 2016
Rochester, New York