

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ROBERT LAMONTE McCLAIN,

6:11-cv-1444-HZ

Plaintiff,

ORDER

v.

SALEM HOSPITAL, et.al.,

Defendants.

HERNANDEZ, District Judge.

Plaintiff brings this civil rights action *pro se* pursuant to 42 U.S.C. § 1983. On April 27, 2012, this Court issued an order denying Plaintiff's request to amend his original complaint, but allowing Plaintiff 45 days in which to file a Second Amended Complaint. Plaintiff filed a Second Amended Complaint (#49) naming new defendants. However, it is clear from the amended complaint and motions he has filed that Plaintiff does not understand that an amended complaint takes the place of a prior complaint, and is not added to the original complaint. Because Plaintiff's intent is

unclear, the Court will allow Plaintiff fourteen (14) days in which to file a Third Amended Complaint which presents every claim he wishes to raise, and which names every defendant.

Plaintiff is advised that the Third Amended Complaint must comply with the Federal Rules of Civil Procedure and Local Rule 15.

That is:

- Each and every defendant Plaintiff wishes to name in this civil action must be named in the caption of the complaint. Fed. R. Civ. P. 10(a).
- Each and every claim must be stated in the amended complaint. L.R. 15-1(c).
- The complaint must contain a short and plain statement of the claim(s) showing that the plaintiff is entitled to relief, that is - showing how the defendants violated plaintiff's civil rights; the complaint must state the relief the plaintiff is seeking. Fed. R. Civ. P. 10(a).
- The amended complaint must include in the title PROPOSED THIRD AMENDED COMPLAINT and specify case number 6:11-cv-1444-HZ.

#### CONCLUSION

Plaintiff has fourteen (14) days from the date of this Order to file a third amended complaint. A failure to file a third amended complaint that complies with the guidelines noted above will result in this action proceeding with the Second Amended Complaint as it was filed, raising one claim and naming Conmed, Inc, Shelia Lorence, and Marion County Jail as defendants.

Pending motions for appointment of counsel (#47); for waiver of Pacer fees (#48); and for suspension of local rules (#61) are DENIED. Pending motions (#51), (#54), (#55), (#57), (#58), (#59),

and (#60), some of which pertain to individuals not named as defendants in the Second Amended Complaint, are DENIED as premature or improper.

IT IS SO ORDERED.

DATED this 26 day of July, 2012.

  
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Marco A. Hernandez  
United States District Judge