

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 06, 2018

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON SEAN F. MCAVOY, CLERK

GEOFFREY ROBERT LAWSON,
SR.,

No. 2:16-CV-00361-SMJ

Plaintiff,

**ORDER DENYING MOTION FOR
RECONSIDERATION**

v.

DAN PACHOLKE; ELDON VAIL;
ISRAEL ROY GONZALES;
BRANDON WELLS; MARTHA
HAYES; TAMERA AVERY; LORI
WONDERS; JOHN DOES 1-10;
PAUL BARKER; BONNIE
LONGINO; H. HERNANDEZ; LT. D.
BUSS; LT. M. MARRY; CC2
JORDAN; BERNARD WARNER;
RACHEL SHOOK; and TRACY
STUENKEL,

Defendants.

Before the Court, without oral argument, is Plaintiff Geoffrey R. Lawson’s construed motion for reconsideration, ECF No. 71. Plaintiff sent a letter to the Court titled “Plaintiff’s Objections.” The Court has reviewed the document and case file and construes this letter as a motion for reconsideration of its: (1) Order Denying Plaintiff’s Motion for Preliminary Judgment, ECF No. 67; (2) Order Denying

1 Plaintiff's Motion for Protective Order and In Camera Review, ECF No. 68; and
2 (3) Order Granting Defendants Leave to Amend Answer, ECF No. 69.

3 As a preliminary matter, Plaintiff's motion for reconsideration exceeds the
4 page limits imposed by the Court. *See* ECF No. 52 at 10. Given that the motion has
5 been handwritten, especially by a *pro se* litigant, the Court exercises leniency.

6 Plaintiff also requests a telephonic hearing on the matter. ECF No. 71 at 2.
7 The Court has already noted in its Scheduling Order, ECF No. 52, that motions for
8 reconsideration are considered without a hearing. As such, the Court denies this
9 request.

10 The Court now turns to the merits.

11 **1. Plaintiff's Motion for Preliminary Judgment**

12 In its Order Denying Plaintiff's Motion for Preliminary Judgment, the Court
13 first construed Plaintiff's motion as one for a preliminary injunction. ECF No. 67.
14 It then denied Plaintiff's motion because he was unable to show that he was likely
15 to succeed on the merits. *Id.* at 6. Specifically, Plaintiff could not show that
16 Defendants' conduct injured him in his criminal appeal because the court of appeals
17 accepted and addressed on the merits Plaintiff's statement of additional grounds. *Id.*
18 And, Plaintiff could not show that Defendants violated his rights by banning laptop
19 use and compact discs (CDs) from non-authorized vendors. *Id.* at 7–10.

1 Plaintiff argues that he was not provided a “full and fair opportunity” to
2 present his evidence. ECF No. 71 at 4–5. Puzzlingly, Plaintiff had such an
3 opportunity to do so in his motion. To the extent Plaintiff argues that there should
4 have been an evidentiary hearing, this is *generally* true. However, because the relief
5 sought failed as a matter of law, i.e., Plaintiff could not show a likelihood of success
6 on the merits, the Court did not hold an evidentiary hearing. Any resolved factual
7 disputes would not save Plaintiff’s claim for relief.

8 Insofar as Plaintiff argues that the Court should have advanced the trial on
9 the merits, the Court has discretion under Federal Rule of Civil Procedure 65(a)(2)
10 to decline to do so. Indeed, the Court declined to do so because Plaintiff had not
11 provided a reason “for the necessity of an expedited decision.” ECF No. 67 at 10.
12 And, as discussed above, the Court declined to hold an evidentiary hearing, so the
13 trial could not be consolidated with the hearing.

14 Accordingly, the Court denies Plaintiff’s motion for reconsideration of its
15 Order Denying Plaintiff’s Motion for Preliminary Judgment.

16 **2. Plaintiff’s Motion for Protective Order and In Camera Review**

17 In its Order Denying Plaintiff’s Motion for Protective Order and In Camera
18 Review, the Court noted that Plaintiff’s requests were inappropriate because
19 Plaintiff did not claim the CDs were privileged, the relief sought was duplicative of
20

1 the construed motion for preliminary injunction, and the CDs would be returned at
2 the conclusion of the case. ECF No. 68.

3 Plaintiff claims that this calls into question “the appearance of fairness”
4 because the Court refused to review and evaluate the CD evidence. ECF No. 71 at
5 5. However, Plaintiff does not present any new facts or information for the Court to
6 consider. As such, the Court denies Plaintiff’s motion for reconsideration of its
7 Order Denying Plaintiff’s Motion for Protective Order and In Camera Review.

8 **3. Defendants’ Motion for Leave to Amend Answer**

9 In its Order Granting Defendants Leave to Amend Answer, the Court
10 concluded that justice required leave to amend. Specifically, Defendants discovered
11 that Plaintiff had asserted identical claims in a previous suit, and sought to include
12 the affirmative defense of res judicata. ECF No. 69 at 2. The Court also specifically
13 noted that the proposed amendment would not prejudice Plaintiff because the matter
14 was in its early stages. *Id.*

15 Plaintiff claims that the Court was unfair to grant Defendants leave to amend
16 before Plaintiff responded. ECF No. 71 at 6. Plaintiff is correct that he was entitled
17 to respond to the motion. But Plaintiff misunderstands: the Court may await a
18 responsive pleading if it would be helpful in its determination, such as for
19 substantive motions. Otherwise, the Court may promptly consider a motion to move
20 the case forward. For example, the Court did not await Defendants’ response prior

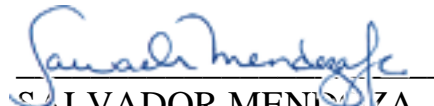
1 to granting Plaintiff's Motion for Extension of Time to File First Amended
2 Complaint, ECF No. 17. Indeed, it granted Plaintiff's motion on the same day. ECF
3 No. 18.

4 Moreover, Plaintiff does not claim now that there was prejudice. As such, the
5 Court is unpersuaded that it erred and does not strike the Amended Answer that has
6 already been filed. Accordingly, the Court denies Plaintiff's motion for
7 reconsideration of its Order Granting Defendants Leave to Amend Answer.

8 Accordingly, **IT IS HEREBY ORDERED**: Plaintiff's construed motion for
9 reconsideration, **ECF No. 71**, is **DENIED**.

10 **IT IS SO ORDERED**. The Clerk's Office is directed to enter this Order and
11 provide copies to Plaintiff and all counsel.

12 **DATED** this 6th day of September 2018.

13 
14 SALVADOR MENDEZ, JR.
United States District Judge