

1 THE HONORABLE JOHN C. COUGHENOUR

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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 VLADIK BYKOV,

10 Plaintiff,

11 v.

12 STEVEN G. ROSEN and his marital
13 community, MICHELINE MURPHY and her
14 marital community, MARCUS NAYLOR
15 and his marital community, BRIAN
16 ROGERS and his marital community, and
17 CITY OF SEATTLE,

18 Defendants.

CASE NO. C15-0713-JCC

ORDER

18 This matter comes before the Court on Defendants Judge Steven G. Rosen, Brian Rogers,
19 and their marital communities' motion to strike Plaintiff's Second Amended Complaint ("SAC")
20 (Dkt. No. 62). The Court dismissed Plaintiff's First Amended Complaint as to claims against
21 Judge Rosen and Mr. Rogers. (Dkt. No. 50.) On appeal, the Ninth Circuit affirmed the dismissal
22 but remanded for the District Court to consider whether Plaintiff should be granted leave to
23 amend certain claims and whether Plaintiff alleged plausible claims for relief under the First,
24 Fourth, and Fourteenth Amendments. (Dkt. No. 54 at 2–4.) This Court found that no amendment
25 would lead to plausible Constitutional claims against these defendants. (Dkt. No. 56 at 3.)
26 Plaintiff's motion for reconsideration was denied. (Dkt. No. 58.) Plaintiff's SAC (Dkt. No. 59)

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1 now renames Judge Rosen and Mr. Rogers as Defendants and reasserts causes of action against
2 them that the Court has dismissed (Dkt. No. 50).

3 “A party may amend its pleading [a second time] only with opposing party’s written
4 consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). A court may strike from a complaint
5 “immaterial [or] impertinent . . . matter.” Fed. R. Civ. P. 12(f).

6 Plaintiff does not have leave to amend his complaint as to Judge Rosen and Mr. Rogers.
7 He misreads orders concerning his claims when he argues otherwise. This Court’s denial of leave
8 to *amend* the complaint as to all claims against these defendants was necessarily a denial of leave
9 to *re-plead* these claims. (*See* Dkt. No. 66 at 6.) Further, the Ninth Circuit’s remand did not
10 mandate leave to re-plead claims. (Dkt. No. 54 at 4–5.)

11 The Court thus GRANTS Defendants’ motion to strike (Dkt. No. 63). Asserted claims
12 against Defendants Judge Steven G. Rosen and his marital community and Brian Rogers and his
13 marital community are hereby STRICKEN with prejudice and without leave to amend.

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15 DATED this 17th day of November 2017.

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19 John C. Coughenour
20 UNITED STATES DISTRICT JUDGE