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

10 UNITED STATES OF AMERICA,
11 ex rel. RAJU A.T. DAHLSTROM, et
12 al.,

13 Plaintiffs,

14 v.

15 SAUK-SUIATTLE INDIAN TRIBE
16 OF WASHINGTON, et al.,

17 Defendants.

CASE NO. C16-0052JLR

ORDER ON RESPONSES TO
THE COURT'S ORDER TO
SHOW CAUSE AND
PLAINTIFF'S MOTION FOR AN
EXTENSION OF TIME TO SEEK
LEGAL COUNSEL

18 **I. INTRODUCTION**

19 On February 27, 2020, the court issued an order to show cause why the court
20 should not enter a Federal Rule of Civil Procedure 54(b) judgment on all issues decided
21 in this matter and not stayed herein. (OSC (Dkt. # 117).) Before the court are
22 Defendants Ronda Kay Metcalf, Christine Marie Jody Morlock, and Robert Larry
Morlock's ("Individual Defendants") response and Attorney Richard L. Pope, Jr.'s

1 response to the court's order to show cause. (*See* Def. Resp. (Dkt. # 119); Pope Resp.
2 (Dkt. # 121).) In addition, before the court is Plaintiff Raju A.T. Dahlstrom's motion for
3 an extension of time to seek legal counsel. (Plf. Mot. (Dkt. # 122)).

4 The court has considered Individual Defendants' and Mr. Pope's responses to its
5 order to show cause, the relevant portions of the record, and the applicable law. Being
6 fully advised, the court determines that there is no just reason for delaying the entry of
7 judgment as to all matters decided herein and not stayed. *See* Fed. R. Civ. P. 54(b). In
8 addition, the court has reviewed Mr. Dahlstrom's motion, the relevant portions of the
9 record, and the applicable law. Being fully advised, the court DENIES Mr. Dahlstrom's
10 motion.

11 II. BACKGROUND

12 A. Rule 54(b) Judgment

13 On March 21, 2017, the court dismissed Defendant Sauk-Suiattle Indian Tribe of
14 Washington with prejudice on grounds of sovereign immunity. (See 3/21/17 Order (Dkt.
15 # 39) at 3-7, 11.) On August 29, 2019, the court granted summary judgment in favor of
16 all remaining Defendants and dismissed Plaintiff Raju A.T. Dahlstrom's complaint with
17 prejudice.¹ (8/29/19 Order at 37.) The court also granted Individual Defendants' motion

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19 ¹ In his response to the court's February 27, 2020, order to show cause, Mr. Pope asserts
20 that Mr. Dahlstrom's claims against Defendant Community Natural Medicine, PLLC ("CNM"),
21 are still pending. (*See* Pope Resp. at 2 ("CNM has never been dismissed as a
22 [d]efendant . . .").) That assertion is incorrect. The court's August 29, 2019, order granted
summary judgment in favor of Defendants on all of Mr. Dahlstrom's remaining claims, including
those against CNM. (*See* 8/29/19 Order (Dkt. # 79) at 28-29 (addressing Mr. Dahlstrom's claims
against CNM and stating that he did "not provide evidence of a single false claim presented to
the government by CNM"); *id.* at 29 (granting summary judgment "with respect to all of Mr.
Dahlstrom's alleged false claims"); *id.* at 37 (dismissing Mr. Dahlstrom's complaint with

1 for an award of attorney's fees pursuant to 31 U.S.C. § 3730(d)(4) and RCW
2 74.66.070(d)(4) against Mr. Dahlstrom and ordered Defendants to file a motion setting
3 forth their reasonable fees and expenses as described in the court's order. (8/29/19 Order
4 at 34-36, 38.) In addition, the court ordered Mr. Dahlstrom's attorney, Mr. Richard Pope,
5 to show cause why the court should not award some of Defendants' attorney's fees
6 against him personally pursuant to 28 U.S.C. § 1927, Federal Rule of Civil Procedure
7 11(b), or the court's inherent authority. (8/29/19 Order at 36-38.)

8 On September 12, 2019, Mr. Dahlstrom filed a notice of Chapter 13 bankruptcy.
9 (Notice (Dkt. # 84).) On November 15, 2019, the court ruled that, although Mr.
10 Dahlstrom's notice of Chapter 13 bankruptcy and the resulting automatic bankruptcy stay
11 applied to Defendants' motion for fees and expenses against Mr. Dahlstrom, the stay did
12 not apply to the action generally or to the possible imposition of sanctions against Mr.
13 Pope. (11/15/19 Order (Dkt. # 105) at 9.) The court also concluded that Mr. Pope was
14 liable for a portion of Defendants' attorney's fees as a sanction for his litigation conduct
15 herein pursuant to 28 U.S.C. § 1927 and the court's inherent authority, and that Mr.
16 Dahlstrom's bankruptcy did not result in a stay with respect to Mr. Pope's liability for
17 those sanctions. (*Id.* at 10-23.) Ultimately, the court awarded \$10,753.74 in fees as a
18 sanction against Mr. Pope and in favor of Defendants. (*Id.* at 23-27.) Mr. Pope moved
19 for partial reconsideration of the court's order imposing sanctions against him. (See Pope

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22 prejudice).) Further, Mr. Dahlstrom has failed to timely find counsel in this matter and may not
prosecute his *qui tam* action against CNM *pro se*. (See generally 1/22/16 OSC (Dkt. # 2).)
Because the court has already granted summary judgment on Mr. Dahlstrom's claims against
CNM, CNM's dismissal is with prejudice.

1 MFR (Dkt. # 106).) After directing Defendants to file a response to Mr. Pope's motion
2 (12/4/19 Order (Dkt. # 110)), the court denied Mr. Pope's motion for partial
3 reconsideration (2/5/19 Order (Dkt. # 115)).

4 As described above, all the issues in this litigation are now resolved, except for the
5 amount of Individual Defendants' attorney's fees that Mr. Dahlstrom owes Individual
6 Defendants, which is stayed due to Mr. Dahlstrom's Chapter 13 bankruptcy filing. (*See*
7 11/15/19 Order at 9.) Accordingly, on February 27, 2020, the court issued an order to
8 show cause why the court should not enter a Federal Rule of Civil Procedure 54(b)
9 judgment on those matters which are now resolved and not stayed. Individual
10 Defendants responded and asked the court to enter a Rule 54(b) judgment for all matters
11 decided in the case excluding those matters that were automatically stayed due to Mr.
12 Dahlstrom's bankruptcy filing. (Def. Resp. at 1.) Individual Defendants also asked that
13 the Rule 54(b) judgment include pre-judgment and post-judgment interest against Mr.
14 Pope, along with specific directions that Mr. Pope pay the court-ordered amount to the
15 law firm of Floyd, Pflueger & Ringer, P.S. in trust for Individual Defendants. (*Id.* at
16 2-6.) Mr. Pope responded to the court's show cause order and stated that he "certainly
17 does not oppose entry of a 'final judgment' order under Rule 54(b)." (Pope Resp. at 3;
18 *see also id.* at 5 ("All in all, entry of a 'final judgment' order is appropriate under Rule
19 54(b).").) Mr. Pope also stated that he has no objection to the court specifying or
20 "clarify[ing]" to whom he should make his payment of court-ordered sanctions. (*Id.* at 4;
21 *see id.* at 5 ("Conceivably, the Court could enter a clarification order . . .").)
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1 **B. Mr. Dahlstrom’s Motion for an Extension of Time to Find Counsel**

2 In its November 15, 2019, order, the court also granted Mr. Dahlstrom and Mr.
3 Pope’s joint motion asking that the court permit Mr. Pope to withdraw as Mr.
4 Dahlstrom’s attorney. (*See* MTW (Dkt. # 83); 11/15/19 Order at 28-30.) Mr. Dahlstrom
5 also asked for an extension of time to file a *pro se* motion for reconsideration of the
6 court’s August 29, 2019, order granting summary judgment against him on his remaining
7 claims. (*See* 9/12/19 MFR (Dkt. # 87); *see also* 8/29/19 Order.) The court declined to
8 permit Mr. Dahlstrom to file a *pro se* motion for reconsideration because the Ninth
9 Circuit does not permit a *pro se* plaintiff to prosecute a *qui tam* action. (*See* 11/15/19
10 Order at 29 (citing *Stoner v. Santa Clara Cty. Office of Educ.*, 502 F.3d 1116, 1127 (9th
11 Cir. 2007)).) However, the court granted Mr. Dahlstrom 30 days to retain alternate
12 counsel and to file a motion for reconsideration with the assistance of counsel. (*Id.* at
13 29-30 & n.15.) Mr. Dahlstrom did not retain counsel within the 30-day period granted by
14 the court or file a motion for reconsideration. (*See generally* Dkt.) Nevertheless, on
15 March 16, 2020, more than four months after the court’s November 15, 2019, order, Mr.
16 Dahlstrom filed a *pro se* motion seeking a further extension of time to obtain legal
17 counsel. (*See* Plf. Mot.)

18 **III. ANALYSIS**

19 The court now considers whether to enter a Rule 54(b) judgment and Mr.
20 Dahlstrom’s motion for an extension of time to retain counsel.

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1 **A. Rule 54(b) Judgment**

2 Rule 54(b) provides that when more than one claim for relief is presented in an
3 action, or when multiple parties are involved, the district court may direct the entry of a
4 final judgment as to one or more but fewer than all claims or parties “only if the court
5 expressly determines that there is no just reason for delay.” Fed. R. Civ. P. 54(b).
6 Judgment under Rule 54(b) is appropriate where there are distinct and severable claims
7 and where immediate review of the adjudicated claims will not result in later duplicative
8 proceedings at the trial or appellate level. *See Wood v. GCC Bend, LLC*, 422 F.3d 873,
9 878–89 (9th Cir. 2005). Judgment under Rule 54(b) is not appropriate in routine cases
10 where the risk of “multiplying the number of proceedings and of overcrowding the
11 appellate docket” outweighs “pressing needs . . . for an early judgment.”
12 *MorrisonKnudsen Co. v. Archer*, 655 F.2d 962, 965 (9th Cir. 1981); *see Curtiss-Wright*
13 *Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 8 (1980).

14 Here, the first requirement for entry of a Rule 54(b) judgment is satisfied. The
15 court has finally and completely resolved Mr. Dahlstrom’s claims against all Defendants.
16 (See 3/21/17 Order at 3-7, 11; 8/29/19 Order at 37); *see also supra* n.1. In addition, the
17 court has finally and completely resolved whether Mr. Dahlstrom’s former counsel, Mr.
18 Pope, is liable to Defendants for a portion of their attorney’s fees as a sanction and the
19 amount of those fees. (See 11/15/19 Order at 12-27 (determining that Mr. Pope was
20 liable for such fees as a sanction and the amount of those fees); *see also* 2/5/20 Order
21 (Dkt. # 115) (denying Mr. Pope’s motion for partial reconsideration of the court’s
22 11/15/19 sanctions order).) Thus, the only remaining issue for the court to determine is

1 the amount of the fee award against Mr. Dahlstrom. (*See id.* at 36 (ordering Ms.
2 Morlock, Mr. Morlock, and Ms. Metcalf to file a motion setting forth the amount of
3 certain reasonable attorney’s fees and expenses).) As described above, the determination
4 of the amount of the award against Mr. Dahlstrom is stayed due to Mr. Dahlstrom’s
5 bankruptcy filing. (*See* 11/15/19 Order at 8-10.)

6 Next, the court determines whether “there is any just reason for delay.” *See Wood*,
7 422 F.3d at 878; *see also* Fed. R. Civ. P. 54(b). This implicates “the historic federal
8 policy against piecemeal appeals.” *See Wood*, 422 F.3d at 878. Relevant factors include:
9 (1) whether a Rule 54(b) judgment would result in unnecessary appellate review; (2)
10 whether the claims finally adjudicated are separate, distinct, and independent of other
11 claims; (3) whether appellate review of the adjudicated claims could be mooted by future
12 developments in the case; and (4) whether an appellate court would have to decide the
13 same issues more than once if there were subsequent appeals. *Id.* at 878 n.2. The court
14 concludes that these factors favor entry of a Rule 54(b) judgment here.

15 First, the entry of a Rule 54(b) judgment will not result in unnecessary appellate
16 review. As noted above, the court has resolved all of Mr. Dahlstrom’s claims in
17 Defendants’ favor. (*See* 3/21/17 Order at 3-7, 11; 8/29/19 Order at 37); *see also supra*
18 n.1. Further, the court has determined that Mr. Pope is liable for a portion of Individual
19 Defendants’ attorney’s fees pursuant to 28 U.S.C. § 1927 and the court’s inherent
20 authority (*see* 11/15/19 Order at 10-23) and calculated the portion of those fees that Mr.
21 Pope must pay (*see id.* at 23-27). Even if Mr. Dahlstrom or Mr. Pope appeal the court’s
22 rulings herein, the issue of calculating for what portion of Individual Defendant’s

1 reasonable attorney fees Mr. Dahlstrom is liable—the sole remaining issue that is
2 presently stayed—does not overlap or overlaps only tangentially with the issues the court
3 has already resolved.²

4 Second, the determination of what portion of Individual Defendants’ reasonable
5 attorney’s fees Mr. Dahlstrom is liable for under 31 U.S.C. § 730(d)(4) and RCW
6 74.66.070(d)(4) is separate and distinct from the legal issues that court has already
7 determined, including the resolution of Mr. Dahlstrom’s substantive claims against
8 Defendants and Mr. Pope’s liability for a portion of Individual Defendants’ attorney’s
9 fees under 28 U.S.C. § 1927 and the court’s inherent authority.

10 Third, review of the court’s resolution of Mr. Dahlstrom’s claims against
11 Defendants and the court’s imposition of an award of a portion of Individual Defendants’
12 attorney’s fees against Mr. Pope will not be mooted by any future developments in the
13 instant litigation. The court can foresee no ruling on an award of a portion of Individual
14 Defendants’ reasonable attorney’s fees against Mr. Dahlstrom that will alter or affect its
15 rulings on the issues that are proposed to be covered by a Rule 54(b) judgment and that
16 are not stayed due to Mr. Dahlstrom’s bankruptcy filing.

17 Fourth, the appellate court will not be required to decide the same issues more
18 than once if there are subsequent appeals. Any subsequent appeal of the issue that is

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21 ² Any minimal overlap of issues is limited to ensuring that Individual Defendants did not
22 recoup a double recovery for any of their reasonably incurred attorney’s fees already awarded
against Mr. Pope.

1 stayed by Mr. Dahlstrom's notice of bankruptcy would relate solely to the court's
2 calculation of a fee award against him.

3 Finally, the court notes that neither Individual Defendants nor Mr. Pope oppose
4 the court's entry of Rule 54(b) judgment concerning the issues the court has resolved
5 herein and that are not stayed due to Mr. Dahlstrom's bankruptcy filing. (*See generally*
6 *Def. Resp.; Pope Resp.*) In sum, the court finds that Mr. Dahlstrom's claims against all
7 Defendants herein have been finally and completely resolved, that the issue of an award
8 of a portion of Individual Defendants' attorney's fees against Mr. Pope has been finally
9 and completely resolved, and that with respect to both Mr. Dahlstrom's claims and the
10 fee award against Mr. Pope there is no just reason to delay entry of final judgment.³
11 Accordingly, the court will enter a Rule 54(b) judgment in favor of Defendants on Mr.
12 Dahlstrom's complaint and in favor of Individual Defendants with respect to the court's
13 award of attorney's fees against Mr. Pope.⁴

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15 ³ In their response to the court's order to show cause, Individual Defendants ask the court
16 to exercise its discretion to award prejudgment interest against Mr. Pope. (*Def. Resp.* at 3-4.)
17 The decision whether to award such interest "falls within the court's discretion," *Ministry of Def.*
18 *& Support v. Cubic Def. Sys.*, 665 F.3d 1091, 1103 (9th Cir. 2011), and here, the court declines
19 to award such interest. However, an award of post-judgment interest is mandatory, *see* 28
U.S.C. § 1961(a) (stating that "[i]nterest shall be allowed on any money judgment in a civil case
recovered in a district court"); *see also Cubic Def. Sys.*, 665 F.3d at 1103 (refusing to toll post-
judgment interest because the plain language of § 1961(a) is mandatory, not discretionary), and
so the court will include an award of post-judgment interest in its Rule 54(b) judgment against
Mr. Pope.

20 ⁴ In their response to the court's order to show cause, Individual Defendants ask that the
21 court to specify in its Rule 54(b) judgment that the judgment debtor with respect to the court's
22 award of attorney fees to Individual Defendants is Mr. Pope, personally, and that the judgment
creditors are Floyd, Pflueger & Ringer, P.S., in trust for Ms. Morlock, Mr. Morlock, and Ms.
Metcalf. (*Def. Resp.* at 5.) Mr. Pope does not oppose this request. (*See Pope Resp.* at 4 ("If the
Court wishes to sua sponte clarify its November 15, 2019 order (Dkt. # 105) and specify which

1 **B. Mr. Dahlstrom’s Motion for an Extension of Time to Find Counsel**

2 As noted above, on November 15, 2019, the court granted Mr. Dahlstrom 30 days
3 to retain alternate counsel and to file a motion for reconsideration of the court’s August
4 29, 2019, summary judgment order with the assistance of counsel. (*See* 11/15/19 Order
5 at 29-30 & n.15.) Mr. Dahlstrom did not file a motion seeking an extension of this
6 deadline until March 16, 2020—more than three months after the deadline had lapsed.
7 (*See* Plf. Mot.)

8 The court may extend a deadline for good cause if the extension request is made
9 “before the original time or its extension expires.” *See* Fed. R. Civ. P. 6(b)(1)(A).
10 However, the party seeking an extension must meet the higher showing of “excusable
11 neglect” if they make the extension request “after the time has expired.” *See* Fed. R. Civ.
12 P. 6(b)(1)(B). To show excusable neglect, a party must show “good faith” and a
13 “reasonable basis” for not complying with a deadline. *Silber v. Mabon*, 18 F.3d 1449,
14 1455 (9th Cir. 1994) (citing *In re Four Seasons Sec. Laws Litig.*, 493 F.2d 1288, 1290
15 (10th Cir. 1974)).

16 Here, Mr. Dahlstrom has made no attempt to demonstrate either “good faith” or
17 “excusable neglect.” (*See generally* Plf. Mot.) Indeed, he offers no explanation at all for
18 his failure to find an attorney within the 30 days provided by the court or the additional
19 three months that have lapsed since then. (*See generally id.*) He also provides no

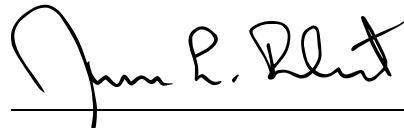
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21 of the five Defendants Mr. Pope should pay . . . and even specify a different person to make
22 payment to, then Mr. Pope has no opposition (or support) on this matter, since he doesn’t care
 who he pays – so long as it complies with Court orders.”.) Accordingly, the court will list the
 judgment creditors in its Rule 54(b) judgment as Individual Defendants request.

1 recitation of the steps he took to comply with the court's order within the 30-day
2 timeframe the court provided. (*See generally id.*) Because Mr. Dahlstrom has made no
3 attempt to comply with the strictures of Rule 6(b)(1)(B), the court denies his motion for
4 an extension of time. *See Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995) ("Although
5 we construe pleadings liberally in their favor, pro se litigants are bound by the rules of
6 procedure.").

7 **IV. CONCLUSION**

8 Based on the foregoing analysis, the court concludes that it should enter a Rule
9 54(b) judgment in favor of Defendants on Mr. Dahlstrom's complaint and in favor of
10 Individual Defendants with respect to the court's award of attorney's fees against Mr.
11 Pope and hereby DIRECTS the Clerk to do so. In addition, the court DENIES Mr.
12 Dahlstrom's motion for an extension of time to obtain legal counsel (Dkt. # 122).

13 Dated this 1st day of April, 2020.

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16 JAMES L. ROBERT
17 United States District Judge
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