

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 BENJAMIN ANDREW LAIGO,

10 Plaintiff,

11 v.

12 KING COUNTY, et al.,

13 Defendants.

CASE NO. C16-1541-TSZ-MAT

ORDER REGARDING AMENDED
COMPLAINT AND DIRECTING
SERVICE BY FIRST-CLASS MAIL AND
PROCEDURES

14 This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff proceeds *pro*
15 *se* and *in forma pauperis*. The Court previously granted plaintiff's motion to amend to identify
16 Doe defendants and directed plaintiff to submit any amended complaint on or before January 31,
17 2018. (Dkt. 76.) Plaintiff timely filed two amended complaints, both of which are sixty-two
18 pages in length, appear to be identical, and identify thirty-nine individual defendants. (Dkts. 78
19 & 79.) Because the later-filed amended pleading is accompanied by a greater number of
20 attachments (*see* Dkt. 78 (240 pages in total) and Dkt. 79 (302 pages in total)), the Court herein
21 construes that document (Dkt. 79) as the operative amended complaint.

22 Now, having reviewed plaintiff's amended complaint and the balance of the record, the
23 Court hereby ORDERS as follows:

ORDER
PAGE - 1

1 (1) Service by Clerk

2 The Clerk is directed to send to the thirty-nine individual defendants by first-class mail: a
3 copy of the amended complaint (Dkt. 79 at 1-62), without the voluminous attachments,¹ a copy
4 of this Order, two copies of the notice of lawsuit and request for waiver of service of summons, a
5 waiver of service of summons, and a return envelope, postage prepaid, addressed to the Clerk's
6 Office.

7 (2) Response Required

8 Defendants shall have **thirty (30) days** within which to return the enclosed waivers of
9 service of summons. If a defendant timely returns the signed waiver, he shall have **sixty (60)**
10 **days** after the date designated on the notice of lawsuit to file and serve an answer to the
11 complaint or a motion permitted under Rule 12 of the Federal Rules of Civil Procedure.

12 If a defendant fails to timely return the signed waiver, he will be personally served with a
13 summons and amended complaint, and may be required to pay the full costs of such service,
14 pursuant to Rule 4(d)(2) of the Federal Rules of Civil Procedure. A defendant who has been
15 personally served shall file an answer or motion permitted under Rule 12 within **thirty (30) days**
16 after service.

17 (3) Filing and Service by Parties, Generally

18 All attorneys admitted to practice before this Court are required to file documents
19 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,
20 www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF.
21 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original
22 with the Clerk. All filings, whether filed electronically or in traditional paper format, must

23 ¹ Upon request by any individual defendant, the Court will provide copies of the attachments to
the amended complaint.

1 indicate in the upper right hand corner the name of the magistrate judge to whom the document
2 is directed.

3 For any party filing electronically, when the total of all pages of a filing exceeds fifty
4 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as
5 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be
6 clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

7 Any document filed with the Court must be accompanied by proof that it has been served
8 upon all parties that have entered a notice of appearance in the underlying matter.

9 (4) Motions, Generally

10 Any request for court action shall be set forth in a motion, properly filed and served.
11 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
12 part of the motion itself and not in a separate document. The motion shall include in its caption
13 (immediately below the title of the motion) a designation of the date the motion is to be noted for
14 consideration upon the Court's motion calendar.

15 Stipulated and agreed motions, motions to file over-length motions or briefs, motions for
16 reconsideration, joint submissions pursuant to the option procedure established in LCR 37(a)(2),
17 motions for default, requests for the clerk to enter default judgment, and motions for the court to
18 enter default judgment where the opposing party has not appeared shall be noted for
19 consideration on the day they are filed. *See* LCR 7(d)(1). All other non-dispositive motions
20 shall be noted for consideration no earlier than the third Friday following filing and service of the
21 motion. *See* LCR 7(d)(3). All dispositive motions shall be noted for consideration no earlier
22 than the fourth Friday following filing and service of the motion. *Id.*

23 For electronic filers, all briefs and affidavits in opposition to either a dispositive or non-

dispositive motion shall be filed and served not later than 11:59 p.m. on the Monday immediately preceding the date designated for consideration of the motion. If a party (i.e. a *pro se* litigant and/or prisoner) files a paper original, that opposition must be received in the Clerk's office by 4:30 p.m. on the Monday preceding the date of consideration.

The party making the motion may file and serve, not later than 11:59 p.m. (if filing electronically) or 4:30 p.m. (if filing a paper original with the Clerk's office) on the date designated for consideration of the motion, a reply to the opposing party's briefs and affidavits.

(5) Motions to Dismiss and Motions for Summary Judgment

Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure should acquaint themselves with those rules. As noted above, these motions shall be noted for consideration no earlier than the fourth Friday following filing and service of the motion.

Defendants filing motions to dismiss or motions for summary judgment are advised that they MUST serve *Rand* notices concurrently with motions to dismiss based on failure to exhaust administrative remedies and motions for summary judgment so that *pro se* prisoner plaintiffs will have fair, timely and adequate notice of what is required of them in order to oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit has set forth model language for such notices:

A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact – that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of

1 law, which will end your case. When a party you are suing makes a
2 motion for summary judgment that is properly supported by declarations
3 (or other sworn testimony), you cannot simply rely on what your
4 complaint says. Instead, **you must set out specific facts in declarations,**
5 **depositions, answers to interrogatories, or authenticated documents,**
6 **as provided in Rule 56(e), that contradict the facts shown in the**
7 **defendant's declarations and documents and show that there is a**
8 **genuine issue of material fact for trial. If you do not submit your own**
9 **evidence in opposition, summary judgment, if appropriate, may be**
10 **entered against you. If summary judgment is granted, your case will**
11 **be dismissed and there will be no trial.**

12 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added).

13 Defendants who fail to file and serve the required *Rand* notice on plaintiff may have their
14 motion stricken from the Court's calendar with leave to re-file.

15 (6) Direct Communications with District Judge or Magistrate Judge

16 No direct communication is to take place with the District Judge or Magistrate Judge with
17 regard to this case. All relevant information and papers are to be directed to the Clerk.

18 (7) The Court STRIKES the discovery and dispositive motion deadlines previously
19 set in this matter. The Court will reset deadlines following receipt of defendants' answer to the
20 amended Complaint.

21 (8) The Clerk is directed to send copies of this Order to plaintiff, defendant King
22 County, and to the Hon. Thomas S. Zilly. The Clerk is further directed to send a copy of this
23 Order and a courtesy copy of plaintiff's amended complaint, along with all attachments to the
amended complaint, to the King County Prosecutor's Office, by first-class mail.

DATED this 15th day of February, 2018.



Mary Alice Theiler
United States Magistrate Judge