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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6
7 ROBIN BLAKE COMBS, SR.,

8 Plaintiff,

9 v.

10 JOSEPH D. LEHMAN, *et al.*,

11 Defendants,

Case No. C08-5063 RJB/KLS

ORDER GRANTING
PLAINTIFF'S MOTION FOR
RECONSIDERATION
REGARDING SUBMISSION OF
COPIES

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14 Before the Court is Plaintiff's motion for reconsideration. Dkt. # 90. Mr. Combs asks this Court
15 to reconsider its Order Directing Submission of Identical Copies for Service (Dkt. # 84) because he has
16 since submitted an amended complaint (Dkt. # 85¹) properly incorporating both of his exhausted claims.
17 *Id.* After carefully reviewing Plaintiff's motion and the balance of the record, it appears that Plaintiff is
18 entitled to the relief he seeks.

19 **I. DISCUSSION**

20 Motions for reconsideration are disfavored and will ordinarily be denied in the "absence of a
21 showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not
22 have been brought to the court's attention earlier with reasonable diligence." Local Rule CR 7(h)(1).

23 Due to cross-mailings, delays in the mails, and several delays in the Clerk's office, it appears that
24 Mr. Combs did not receive the Court's Orders or service orders in a timely manner. For example, Mr.
25 Combs states that the envelope containing the Court's Order directing him to submit identical service
26 copies (Dkt. # 84), was post-marked January 29, 2009, although it was docketed on January 20, 2009, and
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¹Both the Court and Plaintiff referred to the "second" amended complaint filed on January 6, 2009
as Dkt. # 83. The pleading was subsequently docketed on January 26, 2009 as Dkt. # 85.

1 it was not received by him until February 2, 2009. Dkt. # 90, p. 2.

2 After being granted leave to amend, Mr. Combs submitted what the Court believed to be his
3 amended complaint on December 12, 2008. See Dkt. # 81. On December 31, 2008, the Court ordered
4 Mr. Combs to submit service forms so that Dkt. # 81 could be served on the defendants. Dkt. # 82. On
5 January 6, 2009, Mr. Combs filed the second Amended Complaint. Dkt. # 85. These copies were not
6 identical to the amended complaint at Dkt. # 81 and as Mr. Combs had not sought leave nor notified the
7 Court or defense counsel that he was amending his complaint, his second filing was taken to be non-
8 identical copies of Dkt. # 81.

9 Be that as it may, Mr. Combs was granted leave to amend his complaint to allege facts relating to
10 the claims properly exhausted in Log Nos. 0408978 and 0412044. Dkt. # 73, p. 6. He alleges to have
11 done so in the amended complaint which is now docketed at Dkt. # 85. Therefore, the parties are advised
12 that this case shall proceed based on the Amended Complaint at Dkt. # 85.

13 ACCORDINGLY, it is **ORDERED** as follows:

- 14 (1) Plaintiff's motion for reconsideration (Dkt. # 90) is **GRANTED**.
- 15 (2) Plaintiff's Amended Complaint (Dkt. # 81) is **STRICKEN** and the Clerk shall remove the
16 word "Proposed" from the docket entry at Dkt. # 85.
- 17 (3) To avoid further confusion, the Clerk shall make all service copies for service of the
18 Amended Complaint (Dkt. # 85).
- 19 (4) The parties are referred to the Court's Order Directing Disclosure of Service Addresses
20 and Granting Extension of Time, filed simultaneous hereto, regarding service of the
21 Amended Complaint (Dkt. # 85).

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23 DATED this 24th day of February, 2009.

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26 Karen L. Strombom
27 United States Magistrate Judge
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