

MINUTE ORDER

CASE NUMBER: CIVIL NO. 23-00389 LEK-WRP

CASE NAME: Public Interest Legal Foundation, Inc. v. Scott T. Nago

JUDGE: Leslie E. Kobayashi

DATE: 8/9/2024

COURT ACTION: EO: COURT ORDER DENYING PLAINTIFF'S "NOTICE OF INTENT TO NOT AMEND COMPLAINT AND/OR MOTION TO AMEND ORDER," [DKT. NO. 60]

On June 28, 2024, the Court issued an order that dismissed Counts I, II, and III without prejudice because the claims were not ripe, and granted Plaintiff Public Interest Legal Foundation, Inc. ("Plaintiff") leave to file a second amended complaint by October 28, 2024, if the claims were ripe at that time ("6/28 Order"). Dkt. no. 58, *also available at* 2024 WL 3233994. The Court noted that, if no amended complaint was filed by October 28, 2024, the case would be closed. 6/28 Order, 2024 WL 3233994, at *8. Before the Court is Plaintiff's Notice of Intent to Not Amend Complaint and/or Motion to Amend Order (ECF No. 58), filed July 9, 2024. [Dkt. no. 60.] The Court construes this filing as both a notice of intent and a motion for reconsideration of the 6/28 Order ("Notice and Motion for Reconsideration"). The Court finds this matter suitable for disposition without further briefing and without a hearing. See Local Rule LR7.1(d); Local Rule LR60.1. The Motion for Reconsideration is hereby denied for the reasons set forth below.

Because no judgment has been issued in this case, the Motion for Reconsideration is governed by Federal Rule of Civil Procedure 60. See Local Rule LR60.1; Fed. R. Civ. P. 59(e) ("A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment."). Reconsideration may be appropriate if: (1) the district court "is presented with newly discovered evidence," (2) the district court "committed clear error or the initial decision was manifestly unjust," or (3) "if there is an intervening change in controlling law." See *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993) (citation omitted). While such motions are disfavored, the Court "enjoys considerable discretion in granting or denying the motion." See *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011) (citation and quotation marks omitted); see also Local Rule LR60.1.

Here, Plaintiff does not identify any newly discovered evidence, nor an intervening change in law, nor a clear error or manifest injustice. Plaintiff does not offer any caselaw

that the Court has not previously considered. Compare Notice and Motion for Reconsideration at 3-4, with Plaintiff's Response in Opposition to Defendant's Motion to Dismiss the First Amended Complaint, and, in the Alternative, Motion for Summary Judgment [Dkt. 35-36] Filed on November 28, 2023, filed 1/26/24 (dkt. no. 42), at 3, 14, 16-18, 24. While Plaintiff disagrees with the 6/28 Order, "[m]ere disagreement with a previous order is an insufficient basis for reconsideration." Fisher v. Kealoha, 49 F. Supp. 3d 727, 735 (D. Hawai'i 2014) (citation omitted). Because Plaintiff has not presented any ground that warrants reconsideration of the 6/28 Order, the Motion for Reconsideration is DENIED.

Insofar as Plaintiff moves the Court to enter a final, appealable order, the request is DENIED AS MOOT. As the Court indicated in the 6/28 Order, the case will be dismissed without prejudice on October 29, 2024, if Plaintiff does not file a second amended complaint by October 28, 2024. See 6/28 Order, 2024 WL 3233994, at *8.

IT IS SO ORDERED.

Submitted by: Theresa Lam, Courtroom Manager

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