

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MICHAEL A. BURKE, :
Plaintiff, :
V. : CASE NO. 3:08-CV-641 (RNC)
JAMES MIRON ET AL., :
Defendants. :

RULING AND ORDER

The Magistrate Judge's recommended ruling (doc. 47) recommends that defendants' motion to dismiss be denied insofar as it is based on plaintiff's failure to file a 26(f) report. With regard to the other basis for dismissal advanced by the defendants in their motion to dismiss - plaintiff's failure to pay monetary sanctions imposed in other cases - the Magistrate Judge observes that Judge Kravitz has entered an order pursuant to Local Rule 16(g) (2) directing the Clerk not to accept any filing from the plaintiff until the sanctions are paid in full. See Burke v. Also Cornerstone, 3:08-CV-643 (MRK), doc. 48 (D. Conn. Jan. 29, 2009). The Magistrate Judge recommends giving the plaintiff an opportunity to avoid dismissal by paying those sanctions on or before April 1, 2010.

Plaintiff has filed an objection to the recommended ruling stating that he cannot pay the sanctions imposed in other cases and requesting that Judge Kravitz's order be revoked. Plaintiff has not provided an affidavit or other evidence showing that he

is unable to pay the sanctions he owes. In any event, he cites no authority for the proposition that inability to pay provides a legal basis for revoking an order properly entered under Local Rule 16(g) (2).

Accordingly, after review and over objection, the Magistrate Judge's recommended ruling (doc. 47) is hereby approved and adopted. In view of plaintiff's statement that he cannot pay the sanctions he owes, this action is hereby dismissed without prejudice in accordance with the order entered against the plaintiff under Local Rule 16(g) (2). The Clerk is directed to close the file.

So ordered this 22nd day of March 2010.

/s/RNC
Robert N. Chatigny
United States District Judge