

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARK JACKSON,  
Plaintiff,

Civil Action No. 05-4988

v.

ROHM & HAAS COMPANY, et al.,  
Defendants.

**MEMORANDUM / ORDER**

July 7, 2006

Before the court is “Plaintiff’s Motion for Leave to Amend the Amended Complaint” (Docket # 71). By this motion, plaintiff Mark Jackson requests permission to add to this litigation claims arising from his alleged recent termination by defendant Rohm & Haas. The proposed amendment would cite Jackson’s termination as additional support for his existing claims and would add RICO and ERISA claims based on the termination. For the reasons that follow, the motion will be denied.

FED. R. CIV. P. 15 states that, after amending a complaint once as a matter of course, a plaintiff “may amend [its] pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.” Leave may be denied when the interests of justice do not favor amendment, and “[a]mong the

grounds that could justify a denial of leave to amend are undue delay, bad faith, dilatory motive, prejudice, and futility.” *In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir.1997).

I know of no reason to deny Jackson the opportunity to amend his complaint for a second time in order to include claims and theories based on his alleged termination. However, I will deny Jackson’s motion because the second amended complaint that he proposes to file retains substantial elements from his original complaint that I have already determined, in the opinion filed on March 9, 2006, to be frivolous. *Jackson v. Rohm & Haas Co.*, 2006 WL 680933 (E.D. Pa. March 9, 2006). For instance, the proposed second amended complaint continues to assert that the defendants obstructed justice by submitting to this court, as part of an appendix, allegedly false evidence from the state court action. As the March 9, 2006 opinion stated, defendants never offered this evidence for its truth and therefore could not have committed fraud merely by submitting it. Jackson challenged this conclusion in his motion for reconsideration, and I denied that motion in an opinion and order dated April 12, 2006. In footnote 10 of his current motion for leave to amend, Jackson challenges that conclusion yet again; once again, his argument is unpersuasive. I also note that Jackson’s proposed second amended complaint asserts his loss of the *Jackson I* litigation as a basis for RICO damages and claims that defendants violated 42 U.S.C. § 1985 by interfering with his disability insurance benefits and filing a Rule 11 motion that, *inter alia*, was “not supported by the facts or correct

legal standards [and sought] relief to which defendants are not entitled.” Each of these positions was rejected in the March 9, 2006 opinion. For Jackson to continue to assert, in his proposed second amended complaint, claims and theories that I have already found frivolous is an exercise in futility, and granting him leave to file his proposed second amended complaint would therefore be inappropriate. Accordingly, I will deny his current motion. If Jackson wishes to renew his effort to file an amended pleading that presents claims based on his alleged termination by Rohm & Haas, he may try to do so, but he will not be permitted to append those claims to claims that have already been adjudicated frivolous.

For the foregoing reasons, it is ORDERED that “Plaintiff’s Motion for Leave to Amend the Amended Complaint” (Docket # 71) is DENIED without prejudice.

BY THE COURT:

/s/ Louis H. Pollak

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Pollak, J.