

FILED

JUL 26 2004

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL ANDREW MITCHELL,

Plaintiff,

No. CIV S-03-1513 MCE DAD PS

vs.

AOL TIME WARNER, INC., et al.,

Defendants.

ORDER

Plaintiff, proceeding pro se, filed the above-entitled action. The matter was referred to a United States Magistrate Judge pursuant to Local Rule 72-302(c)(21).

On June 29, 2004, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice to the parties that any objections to the findings and recommendations were to be filed within ten days. No objections to the findings and recommendations have been filed.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

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1 1. The findings and recommendations filed June 29, 2004, are adopted in full;

2 2. Defendant Carnegie Mellon University's motion to declare plaintiff Paul
3 Andrew Mitchell a vexatious litigant is granted; and

4 3. Plaintiff Paul Andrew Mitchell is subject to the following pre-filing
5 restrictions:

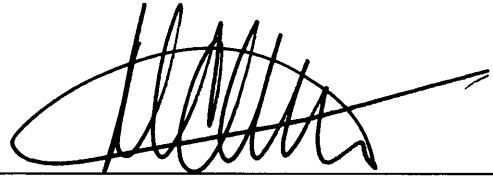
6 a. Plaintiff is enjoined from commencing in the United States District
7 Court for the Eastern District of California any pro se lawsuit or other legal proceeding involving
8 issues parallel to those which plaintiff has persisted in litigating in Mitchell v. AOL Time
9 Warner, Inc., et al., No. CIV.S-01-1480 WBS DAD PS and Mitchell v. AOL Time Warner, Inc.,
10 et al., No. CIV.S-03-1513 MCE DAD PS, or directed against any defendant in those two cases,
11 without prior leave of a judge of the United States District Court for the Eastern District of
12 California.

13 b. Such leave shall be sought by presenting the pleadings initiating the
14 action accompanied by a declaration by plaintiff, signed under penalty of perjury, explaining why
15 plaintiff believes he has meritorious claims. The declaration shall include a list of all previous
16 actions plaintiff has filed in this court, identifying named defendants and all claims made in the
17 previous actions. Plaintiff shall truthfully certify whether the defendants named in the proposed
18 action have ever been sued by plaintiff and whether any claims against previously sued
19 defendants are related to such previous action(s). Should judges, court staff, states, state
20 agencies, governmental officials, or official agents thereof be named as defendants, plaintiff shall
21 demonstrate why such defendants are not immune from suit. Moreover, plaintiff shall show why
22 the judge who reviews the proposed action should not require him to post a bond.

23 c. The Clerk of the Court shall not file or lodge any pro se action or
24 proceeding submitted by plaintiff unless it is accompanied by the required declaration. Any such
25 incomplete filings shall be returned to plaintiff without further action of the court. If plaintiff
26 files an action accompanied by the required declaration, the Clerk shall open the matter as a

1 miscellaneous case to be considered by any judge of the Eastern District of California. The judge
2 will issue necessary orders after making a determination whether the case should be filed under
3 the appropriate legal standards.

4 DATED: JULY 29, 2004.



UNITED STATES DISTRICT JUDGE

7 /mitchell1513.2jo

United States District Court
for the
Eastern District of California
July 30, 2004

* * CERTIFICATE OF SERVICE * *

2:03-cv-01513

Mitchell

v.

AOL Time Warner Inc

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on July 30, 2004, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

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