

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

KAMAL K. PATEL,

Plaintiff,

v.

YVONNE PHILLIPS, et al.

Defendants.

Civil Action No. 10-749 (RWR)

MEMORANDUM OPINION AND ORDER

Plaintiff is proceeding in this case pro se and in forma pauperis (IFP), *see* Order, ECF No. 4 (granting Plaintiff's application to proceed IFP), meaning that Plaintiff was permitted to commence this case without full prepayment of filing fees, *see* 28 U.S.C. § 1915(a)–(b). Plaintiff therefore had an obligation to pay the full amount of filing fee, but he was permitted to do so in installments. *See id.* The Court's finance office confirms that Plaintiff fulfilled that obligation on January 31, 2011; he has now paid the \$350 filing fee in full. Before Plaintiff finished paying the filing fee, Defendants moved the Court to reconsider its order granting Plaintiff IFP status. *See* Defs.' Mot. to Reconsider the Court's May 11, 2010 Order Granting Pl.'s Mot. for Leave to Proceed IFP, and Mem. of P. & A. in Supp. Thereof, ECF No. 26. Because Plaintiff has paid since fully paid the filing fee, that motion is moot and will be denied.

Plaintiff has also moved to "strike" and "dismiss" Defendant's reconsideration motion. *See* Pl.'s Mot. to Strike the Government's Mot. for Reconsideration of the Court's Order Granting IFP Status, ECF No. 42; Mot. to Dismiss Defs.' Mot. to Revoke IFP Status as Moot Since Filing Fees Have Been Paid, ECF No. 47. The plaintiff's motions will be denied given the disposition of the Defendants' motion to reconsider. Moreover, the Federal Rules of Civil

Procedure provide for striking a pleading, not a motion,¹ and do not provide for dismissing motions. *See* Fed. R. Civ. P. 12(b).

Also pending is Plaintiff's motion for a preliminary injunction. *See* Pl.'s Mot. for a Preliminary Injunction to Compel Necessary Medical Care, ECF No. 17. Defendants have not yet filed their response to that motion. The Court will give Defendants 30 days within which to file their response to that motion. Plaintiff has also moved for a hearing on his motion for a preliminary injunction. *See* Pl.'s Request for a Ruling and/or Hearing on Request for a Preliminary Injunction Since Government Hasn't Answered nor Sought any Extension to Respond to this Request, ECF No. 30. This motion will be denied without prejudice pending receipt of Defendants' response to the motion for a preliminary injunction. *See* Fed. R. Civ. P. 78(b) (permitting district courts to determine motions based "on briefs, without oral hearings").

Plaintiff has also repeatedly moved the court to expedite its decision on his motion for a preliminary injunction. *See* Pl.'s Mot. for an Expedited Ruling on his Request for Medical Injunction Due to Failure to Reply and Ongoing Progression of Disease, ECF No. 22; Pl.'s Request for a Ruling and/or Hearing on Request for a Preliminary Injunction Since Government Hasn't Answered nor Sought any Extension to Respond to this Request, ECF No. 30; Pl.'s Mot. for Expedited Treatment of his Request for Injunctive Relief Based on Irreversible and Permanent Harms, ECF No. 52; Pl.'s Mot. to Expedite this Case Due to Irreparable Harms and Prejudice from the Delay on the Plaintiff, ECF No. 60. Any expedition required will be assessed once the motion for a preliminary injunction is fully ripe. The motions to expedite will therefore be denied.

¹ Instead, a motion to strike a motion may be considered as an opposition to the motion the movant seeks to be stricken. *See, e.g., Fisherman's Harvest, Inc. v. United States*, 74 Fed. Cl. 681, 690 (Ct. Cl. 2006); *Goyal v. Thermage, Inc.*, No. 08-cv-20, 2010 WL 2651185, at *2 n.2 (D. Md. July 1, 2010).

Finally, Defendants have moved for an extension of time within which to answer or otherwise to respond to Plaintiff's complaint and to oppose Plaintiff's first motion to expedite. *See* Mot. to Enlarge Time to File an Ans. or Otherwise Respond to Pl.'s Compl. and Oppose Pl.'s Mot. to Expedite, Docket Entry 22, ECF No. 27. This motion will be granted in part and denied as moot in part. The Court will give Defendants 30 days to file their answer or other response, but Defendants need not file an opposition to the extension motion since that motion will be denied.

Accordingly, it is hereby

ORDERED that Plaintiff's Motion for an Expedited Ruling on his Request for Medical Injunction Due to Failure to Reply and Ongoing Progression of Disease, ECF No. 22, is **DENIED**; it is

FURTHER ORDERED that Defendants' Motion to Reconsider the Court's May 11, 2010 Order Granting Plaintiff's Motion for Leave to Proceed in Forma Pauperis, and Memorandum of Points and Authorities in Support Thereof, ECF No. 26, is **DENIED**;

FURTHER ORDERED that the Motion to Enlarge Time to File an Answer or Otherwise Respond to Plaintiff's Complaint and Oppose Plaintiff's Motion to Expedite, Docket Entry 22, ECF No. 27, is **GRANTED in part and DENIED in part**. Defendants shall file their answer or other response to the Civil Complaint, ECF No. 1, on or before October 24, 2011. It is

FURTHER ORDERED that Plaintiff's Request for a Ruling and/or Hearing on Request for a Preliminary Injunction Since Government Hasn't Answered nor Sought any Extension to Respond to this Request, ECF No. 30, is **DENIED**; it is

FURTHER ORDERED that Plaintiff's Motion to Strike the Government's Motion for Reconsideration of the Court's Order Granting IFP Status, ECF No. 42, is **DENIED**; it is

FURTHER ORDERED that the Motion to Dismiss Defendants' Motion to Revoke IFP Status as Moot Since Filing Fees Have Been Paid, ECF No. 47, is **DENIED**; it is

FURTHER ORDERED that Plaintiff's Motion for Expedited Treatment of his Request for Injunctive Relief Based on Irreversible and Permanent Harms, ECF No. 52, is **DENIED**; it is

FURTHER ORDERED that Plaintiff's Motion to Expedite this Case Due to Irreparable Harms and Prejudice from the Delay on the Plaintiff, ECF No. 60, is **DENIED**; it is

FURTHER ORDERED that Defendants shall file their response to Plaintiff's Motion for a Preliminary Injunction to Compel Necessary Medical Care, ECF No. 17, on or before October 24, 2011; it is

SO ORDERED this 21st day of September, 2011.

/s/
RICHARD W. ROBERTS
United States District Judge