

1 eventually forwarded through RMA to the FCIC. Doc #18 at 5-6.
2 In June 2008 plaintiff submitted amended claims for \$4,826,274
3 to the liquidation court and RMA. Id at 7-8.

4 On August 19, 2008, the liquidation court entered an
5 order denying the original claims and the amended claims. Id
6 at 8. The court held: "The terms of this order are intended
7 to constitute a denial of the Original Claims and the Amended
8 Claims for all purposes of 7 USC § 1508(j)(2)(B)." Id at Ex
9 P. The text of 7 USC § 1508(j)(2)(B) reads:

10 Statute of limitations. A suit on the claim may be
11 brought not later than 1 year after the date on which a
12 final notice of denial of the claim is provided to the
13 claimant.

14 Plaintiff thus understood that the statute of limitations on
15 his claims began to run on August 19, 2008, even though RMA
16 had not yet rendered a decision on his amended claims. Doc
17 #18 at 10.

18 RMA did not resolve the amended claims prior to
19 August 19, 2009, the date plaintiff believed the statute of
20 limitations would expire. Id at 8. Plaintiff filed the
21 instant lawsuit on July 30, 2009, prior to administrative
22 resolution of his claims, because he feared his claims might
23 otherwise be time barred under 7 USC § 1508(j)(2)(B). Id at
24 10.

25 Plaintiff's complaint asserts five claims: (i) violation
26 of due process; (ii) violations of the Administrative Procedure
27 Act, 5 USC §§ 701-706; (iii) mandamus under 28 USC § 1361
28 compelling RMA to act on the amended claims; (iv) damages under 7
USC § 400.96; and (v) breach of contract. Id at 10-16.

Defendants move to dismiss plaintiff's complaint for
failure to state a claim and lack of subject matter jurisdiction,
and in the alternative for improper venue. Doc #19. Shortly after
the motion to dismiss was filed, RMA issued a decision on the

1 amended claims and outlined procedures for plaintiff to seek
2 further administrative review. Doc #34-1 at 3. Plaintiff is
3 currently pursuing mediation with RMA. Id.

4 The recent RMA decision renders plaintiff's first three
5 claims moot; accordingly, the claims are DISMISSED.

6 The parties agree that the court need not presently
7 consider the fourth and fifth claims; plaintiff asks that the
8 fourth and fifth claims be "suspended and deferred," Doc #34 at 9,
9 and defendant agrees that the fourth and fifth claims are
10 "premature," Doc #37 at 8. The parties were unable to reach a
11 stipulation regarding dismissal. Doc #38.

12 Plaintiff has raised a concern that the liquidation
13 court's August 19th, 2008 order triggered the one year statute of
14 limitations period in 7 USC § 1508(j)(2)(B). The interpretation of
15 7 USC § 1508(j)(2)(B) is not presently before the court, and the
16 parties agree that plaintiff's remaining claims are not ripe for
17 adjudication. Accordingly, the clerk is DIRECTED administratively
18 to terminate all motions and close the file. The hearing scheduled
19 for July 6, 2010 is VACATED. Plaintiff may, upon a showing of good
20 cause, move to re-open the case.

21
22 IT IS SO ORDERED.

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25 VAUGHN R WALKER
26 United States District Chief Judge
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