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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHAJAR ABID,
Plaintiff,
v.
GOOGLE LLC,
Defendant.

Case No. [18-cv-00981-MEJ](#)
**ORDER RE: MOTION FOR
JUDGMENT AS A MATTER OF LAW**
Re: Dkt. No. 79

Plaintiff has filed a pleading styled “Motion for Judgment as Matter of Law, Motion under Rule 42, and Motion for Judicial Review.” ECF No. 79. The Court assumes Plaintiff’s motion is a summary judgment motion. Such motion is premature, given that Defendant has not yet filed an Answer, and there is a pending Motion to Dismiss Plaintiff’s Second Amended Complaint. ECF No. 76. Moreover, Plaintiff appears to be seeking summary judgment against entities that are not before the Court, including the Food and Drug Administration (“FDA”), and he asserts claims and seeks relief on issues that are not the subject of Plaintiff’s Second Amended Complaint, including an alleged violation of Plaintiff’s First Amendment rights and the constitutionality of 21 U.S.C §321(g)(1)(B). Plaintiff’s “Motion under Rule 42” is likewise misplaced. Plaintiff apparently seeks to sever claims against the FDA and to have them transferred to the Court of Federal Claims. However, there are no claims against the FDA asserted in the Second Amended Complaint. It is unclear what Plaintiff is seeking with respect to his “Motion for Judicial Review.” This motion is likely directed towards Plaintiff’s claim that certain statutory provisions are unconstitutional. These issues fall outside the scope of the Second Amended Complaint and are not properly before the Court. Accordingly, the Court STRIKES Plaintiff’s “Motion for Judgment as Matter of Law, Motion under Rule 42, and Motion for Judicial Review,” ECF No. 79.

IT IS SO ORDERED.

Dated: July 16, 2018



MARIA-ELENA JAMES
United States Magistrate Judge