

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ZACHARY CHESSER,

Plaintiff,

v.

J.S. WALTON, *et al.*,

Defendants.

Case No. 12-cv-1198-JPG-PMF

MEMORANDUM AND ORDER

This matter comes before the Court for case management purposes. The Court notes that plaintiff Zachary Chesser included a request for a preliminary and permanent injunction in his original complaint, both of which were construed as motions (Docs. 1 & 2). He has since filed another motion for preliminary injunction (Doc. 16) and an amended motion for preliminary injunction (Doc. 21). He has also filed an amended complaint (Doc. 19) in which he seeks preliminary and permanent injunctive relief.

Upon review of the file, it appears that the request docketed as a motion for a permanent injunction (Doc. 2) is really no more than a prayer for a relief in the form of a permanent injunction. This prayer for relief has been superseded by the prayer for permanent injunctive relief in the Amended Complaint (Doc. 19). *See Massey v. Helman*, 196 F.3d 727, 735 (7th Cir. 1999) (amended pleading supersedes original pleading and is the operative pleading in the case). The motion for a permanent injunction contained in the complaint (Doc. 2) is therefore **MOOT**.

Similarly, to the extent that the request for preliminary injunctive relief contained in the original complaint constitutes a motion (Doc. 2), for the reasons stated above, that motion has been superseded by the Amended Complaint and its request for preliminary injunctive relief (Doc. 19). Additionally, the original request in the complaint was fleshed out in the motion for a preliminary

injunction (Doc. 16), but that motion was later revised in an amended motion for a preliminary injunction (Doc. 21) and its supporting memorandum (Doc. 22). In sum, the motion for preliminary injunction contained in the complaint (Doc. 2) and the later motion for preliminary injunction (Doc. 16) are **MOOT**, although verified filings may still be considered as affidavits. The Court will consider the amended motion for preliminary injunctive relief (Doc. 21). The Court anticipates Magistrate Judge Frazier will hold an evidentiary hearing on that motion at which time Chesser can present evidence in support of his request.

IT IS SO ORDERED.

DATED: September 26, 2013

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE