

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

HOWARD D. PAYNE,	)	
	)	
Plaintiff,	)	
v.	)	CIVIL ACTION
	)	NO. 09-10355-PBS
COMMONWEALTH OF	)	
MASSACHUSETTS, et al.,	)	
	)	
Defendants.	)	

**ORDER ON PENDING MOTIONS**

This matter is before the court on (1) the motion of attorneys Denner Pellegrino LLP, Richard B. Bailey, and Timothy J. Bradl for reconsideration of the court’s order allowing the voluntary dismissal of the plaintiff’s amended complaint so that the amended complaint is dismissed on the merits (Docket No. 28); (2) the plaintiff’s “Motion to Enlarge Time in Which to File an Answer” to District Attorney Conley’s motion to dismiss (Docket No. 44); and (3) the plaintiff’s “Motion to Substitute Party” (Docket No. 45).<sup>1</sup> After consideration of the parties’ submissions, it is hereby ORDERED as follows:

1. The attorney defendants’ motion for reconsideration is DENIED in light of this court’s conclusion, as detailed in its Report and Recommendation on Plaintiff’s

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<sup>1</sup> This court has separately addressed the pending motions to dismiss filed by defendants Richard Daley, Dennis Harris and Daniel F. Conley (Docket Nos. 21, 23 and 32), the plaintiff’s motion for leave to file an amended complaint (Docket No. 27), and the plaintiff’s motion to strike the attorney defendants’ opposition to the motion to amend (Docket No. 34) in three separate Report and Recommendations issued on this date.

Motion for Leave to Amend issued on this date, that the plaintiff's proposed causes of action against the attorney defendants fail to state a claim for relief and therefore leave to amend the complaint should be denied as futile.

2. The plaintiff filed an opposition to District Attorney Conley's motion to dismiss on June 26, 2009. Accordingly, his pending motion for an enlargement of time in which to respond to the motion to dismiss is DENIED AS MOOT.

3. The plaintiff's motion to substitute party is ALLOWED. Ward W. McKeen shall be substituted for John Doe in the Verified Amended Complaint. The Clerk shall issue a summons accordingly.

          / s / Judith Gail Dein            
Judith Gail Dein  
United States Magistrate Judge

DATED: February 24, 2010