UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY WINTER,

Plaintiff,

v.

UNITED PARCEL SERVICE, INC., DELAWARE and UNITED PARCEL SERVICE, INC., OHIO,

Defendants.
_____/

Hon. Lawrence P. Zatkoff
Magistrate Judge Michael J. Hluchaniuk
Case No. 2:14-cv-10555

ORDER

On February 6, 2014, Plaintiff Gregory Winter ("Plaintiff") filed a complaint (the "Original Complaint") against Defendants United Parcel Service, Inc., Delaware, and United Parcel Service, Inc., Ohio ("Defendants"). On March 7, 2014, Defendants filed a motion to dismiss Plaintiff's Original Complaint [dkt 6]. On April 28, 2014, Plaintiff filed an amended complaint ("Amended Complaint") [dkt 14] and a response to Defendants' motion to dismiss Plaintiff's Original Complaint [dkt 15]. On May 15, 2014, Defendants filed a motion to dismiss Plaintiff's Amended Complaint [dkt 18] and a Notice of Mootness [dkt 26].

In this Notice of Mootness, Defendants indicate that they believe their motion to dismiss Plaintiff's Original Complaint was mooted by Plaintiff's filing of an Amended Complaint. As such, Defendants state that the only motion pending before the Court is their motion to dismiss Plaintiff's Amended Complaint.[1] Plaintiff objected to this notice [dkt 27], arguing that Defendants do not have the authority to make a "unilateral declaration" of mootness.

[1] This same argument was presented in a pleading filed by Defendants in response to Plaintiff's attempt to foreclose Defendants from filing multiple motions to dismiss.

The Court, being fully advised on the issues presented in the parties' filings, finds that Defendants have the right to submit a new motion to dismiss based on Plaintiff's filing of an amended complaint. Therefore, the Court HEREBY ORDERS that, due to Plaintiff's filing of an Amended Complaint, Plaintiff's Original Complaint [dkt 1] is DENIED AS MOOT.

IT IS FURTHER ORDERED that, due to Plaintiff's filing of an Amended Complaint and Defendants' Notice of Mootness with the Court, the Court DENIES AS MOOT Defendants' motion to dismiss Plaintiff's Original Complaint [dkt 6]. Accordingly, the Court also DENIES AS MOOT Plaintiff's Motion for Order to Deem Defendants' Motion to Dismiss Docketed and Foreclose Multiple Motion Filings (the "Motion") [dkt 16] and Defendants' Motion for Immediate Consideration of the Motion [dkt 17].

IT IS FURTHER ORDERED that the only remaining motion before the Court is Defendants' motion to dismiss Plaintiff's Amended Complaint [dkt 18]. Plaintiff has 14 days from the date this order is entered to file a response to Defendants' motion to dismiss Plaintiff's Amended Complaint if he so chooses. Due to the concerns expressed by Plaintiff in several filings,[2] however, the Court will consider Plaintiff's response to Defendants' motion to dismiss Plaintiff's Original Complaint should Plaintiff decide not to respond to Defendants' motion to dismiss Plaintiff's Amended Complaint. The Court notes, however, that it will not consider any future filings that do not comport with the Local Rules for the Eastern District of Michigan.[3]

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
HON. LAWRENCE P. ZATKOFF
U.S. DISTRICT COURT

Date: June 9, 2014

[2] The Court recognizes that Plaintiff expressed concerns with the amount of time already spent on responding to Defendants' motion to dismiss Plaintiff's Original Complaint, along with Plaintiff's stated issue of replicating work product between his first response to Defendants' motion to dismiss and any future responses.

[3] Plaintiff's response to Defendants' motion to dismiss Plaintiff's Original Complaint does not comport with Local Rule 7.1(d)(3).