

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Fazail Azizan,

Plaintiff,

Case No. 1:25-cv-1112-MLB

v.

Alexander Manning and Samuel
Saeid Johnson,

Defendants.

_____ /

ORDER

This case is in danger of going off the rails. Plaintiff is pro se, defense counsel have been sloppy, and the docket is clogged with unnecessary and overly aggressive filings. In an effort to bring order to the proceedings, and to ensure this case is decided as efficiently and fairly as possible (and ideally on the merits), the Court rules as follows.

Defendant Johnson's Motion to Dismiss and Motion for Judgment on the Pleadings (Dkt. 16) and Rule 12(i) Motion for Judgment Prior to Trial (Dkt. 51) are **DENIED WITHOUT PREJUDICE**. Defendant Johnson may file a new motion for judgment on the pleadings—that does

not also attempt to seek dismissal under Rule 12(b)(6)—within the next 14 days if he believes doing so is warranted under the law and the facts. Or he may file a new Rule 12(i) motion within the next 14 days, again if he believes doing so is warranted. If Defendant Johnson truly believes both motions are required, he must ensure they do not needlessly duplicate the same issues.

Defendant Manning's Motion to Dismiss (Dkt. 22) is **DENIED WITHOUT PREJUDICE**. Defendant Manning may refile her motion to dismiss within the next 14 days but, if she does so, she must properly serve the motion on Plaintiff within the same 14 days. If Defendant Manning fails to comply with any applicable service requirements, the Court will strike her renewed motion and Plaintiff's claims against her will proceed to discovery.

The Court **DENIES** Plaintiff's Motion for Clerk's Entry of Default (Dkt. 41) because, to the extent Defendant Manning missed the deadline to respond to Plaintiff's complaint, she did so only by a couple of weeks (Dkt. 52), she did so inadvertently, the Court sees little prejudice in granting an extension, this case has been pending for less than two months, the Eleventh Circuit has a strong preference for deciding cases

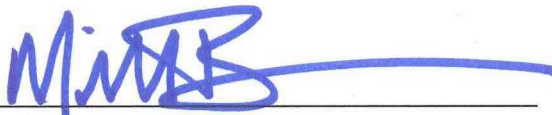
on the merits, and Defendant Manning has clearly “indicate[d] a desire to contest the action.” 10A Charles A. Wright & Arthur R. Miller, Fed. Prac. & Proc. Civ. § 2682 (4th ed. Apr. 2025 Update) (“[T]he court has discretion to grant additional time to a party to plead or otherwise defend. . . . [I]f defendant appears and indicates a desire to contest the action, the court can exercise its discretion and refuse to enter a default.”); *Miller v. Oklahoma Dep’t of Hum. Servs.*, 2024 WL 2828863, at *4 (10th Cir. June 4, 2024) (same).

The Court **ORDERS** Defendants to ensure all future filings are properly and timely served on Plaintiff in accordance with Federal Rules of Civil Procedure and the Local Rules of this Court. The Court may strike or deny any future filings that do not comply with any applicable service requirements. The Court also reminds Defendants that “requests for a court order must be made by motion” and that it is generally inappropriate to present arguments or documents to the Court via email. Fed. R. Civ. P. 7(b)(1); *see* LR 7.4, NDGa. (“Communications to judges seeking a ruling or order . . . shall be by motion.”). To the extent Plaintiff’s motions (Dkts. 9, 13, 24, 25, and 47) ask the Court to issue these instructions, the Court **GRANTS** Plaintiff’s motions (Dkts. 9, 13,

24, 25, 47). The motions (Dkts. 9, 13, 24, 25, 47) are otherwise **DENIED**. Nothing about Defendant Johnson's filing at Dkt. 29 affected the Court's position or conclusion on any issue addressed in this Order.

Discovery in this case remains **STAYED** until the Court orders otherwise. The Court will lift the discovery stay if Defendants do not file dispositive motions within the next 14 days or, if they do, once the Court rules on those motions (unless the Court concludes the motions do not warrant a continuation of the stay). *See Roether v. Georgia*, 2024 WL 358121, at *4 (11th Cir. Jan. 31, 2024) ("Because of the great cost of discovery, when faced with a motion to dismiss a claim for relief that significantly enlarges the scope of discovery, the district court should rule on the motion before entering discovery orders, if possible."); *Roberts v. FNB S. of Alma, Georgia*, 716 F. App'x 854, 857 (11th Cir. 2017) ("[I]n general, motions to dismiss for failure to state a claim should be resolved before discovery begins."); *see also James v. Hunt*, 761 F. App'x 975, 981 (11th Cir. 2018) (district court properly "stay[ed] the proceedings, filings, and discovery until ruling on the Defendants' pending motions for judgment on the pleadings and motions to dismiss").

SO ORDERED this 15th day of April, 2025.

A handwritten signature in blue ink, appearing to read 'M. L. BROWN', with a long horizontal flourish extending to the right.

MICHAEL L. BROWN
UNITED STATES DISTRICT JUDGE