

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CHRISTOPHER EARL STRUNK,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:08-CV-02234 (RJL)
)	
U.S. DEPARTMENT OF STATE,)	
)	
Defendant.)	
)	

**MEMORANDUM IN OPPOSITION TO PLAINTIFF’S
MOTION FOR RECONSIDERATION**

The Department of State hereby opposes Plaintiff’s Motion for Reconsideration [Dkt. #10] of the Court’s Order granting the Department an extension of time in which to file an answer. *See* Minute Order, Jan. 28, 2009. For the reasons set forth in the Department’s initial motion for an extension, the additional time granted by the Court is warranted. In addition, Plaintiff has now filed an Amended Complaint [Dkt. #9], which seeks to add the United States Department of Homeland Security (“DHS”) as a defendant in this action. This document, which was sent to counsel on January 5, 2009, was not docketed until February 11, 2009, and no summons appears to have been issued to or received by DHS. (The government opposes Plaintiff’s informal letter request that he be excused from the service requirements of Fed. R. Civ. P. 4. *See* Mot. for Recons. Ex. at 5 (Strunk Ltr. to Court, Jan. 5, 2009).)¹ When – and if –

¹ Plaintiff contends that his Amended Complaint qualifies as a “supplement” pursuant to Fed. R. Civ. P. 15(d). Mot. for Recons. Ex. at 5. It does not. Most obviously, the Amended Complaint adds far more than mere factual allegations occurring “after the date of the pleading to be supplemented” – among other things, it adds a new defendant (DHS). In any event, even if it did qualify, Rule 15(d) does not excuse litigants from the service requirements of Rule 4. *See* Fed. R. Civ. P. 15(d) (a court may permit a party to “serve a supplemental pleading”) (emphasis added).

DHS is formally served, the government submits that it will advance the interests of judicial efficiency for DHS and the Department of State to respond to the Amended Complaint jointly. Additional time is also necessary for these agencies to investigate and prepare responses to Plaintiff's various allegations.² Finally, Plaintiff's motion does not comply with LCvR 7(m), which imposes a duty to confer with opposing counsel before the filing of nondispositive motions.

Dated: February 19, 2009

Respectfully submitted,

MICHAEL F. HERTZ
Acting Assistant Attorney General

ELIZABETH J. SHAPIRO (D.C. Bar No. 418925)
Deputy Branch Director

/s/ Brigham J. Bowen
BRIGHAM J. BOWEN (D.C. Bar No. 981555)
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² Plaintiff has submitted three requests of which counsel is aware: two to the Department of State and one to DHS. The Department of State has provided a partial final response and is currently conducting a search for other responsive documents, and DHS has completed its search and provided a partial final response to Plaintiff (DHS has also requested additional documentation from Plaintiff as to some categories of requested documents).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of February, 2009, a true and correct copy of the foregoing Memorandum in Opposition was served upon Plaintiff by first class United States mail, postage prepaid marked for delivery to:

**Christopher E. Strunk
593 Vanderbilt Ave., #281
Brooklyn, NY 11238**

/s/ Brigham J. Bowen
Brigham J. Bowen