

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

6500 CHERRYWOOD LANE
GREENBELT, MARYLAND 20770
301-344-0632

MEMORANDUM

TO: Counsel of Record

FROM: Judge Peter J. Messitte

RE: The District of Columbia et al. v. Trump
Civil No. PJM 17-1596

DATE: March 12, 2018

* * *

On February 23, 2018, Plaintiffs filed a Motion for Leave to File an Amended Complaint and to Apply the Pending Motion to Dismiss to the Amended Complaint. ECF No. 90. The Amended Complaint seeks to add Donald J. Trump as a Defendant in his individual capacity. ECF No. 90-2. All other factual allegations and legal claims remain unchanged. *Id.* In their Motion, Plaintiffs also request that the Court, using its discretion, apply the pending Motion to Dismiss (ECF No. 21) to the official capacity claims in the Amended Complaint.

The President does not oppose the Plaintiffs' request for leave to amend. ECF No. 93 at 1. Nor does he oppose Plaintiffs' request that the Court apply the pending Motion to Dismiss to the official capacity claims in the Amended Complaint. *Id.* at 2. However, in view of the new individual capacity claims, he requests the Court postpone ruling on the Motion to Dismiss until he has responded to the Amended Complaint in his individual capacity as permitted by Federal Rule of Civil Procedure 12(a)(3).¹

The Court finds unnecessary any postponement of ruling on the Motion as it relates to the President's official capacity. Absent Plaintiffs' consent to such postponement, the Court intends to rule, without delay, on the Motion to Dismiss (ECF No. 21) as it pertains to the official capacity claims in the Amended Complaint. It will address the individual capacity claims in a separate Opinion once the issue is ripe for review.

Accordingly, the Court **GRANTS** Plaintiffs' Motion for Leave to File an Amended Complaint and Apply the Pending Motion to Dismiss to the Amended Complaint (ECF No. 90) as it pertains to the official capacity claims. The President, in his individual capacity, has 60 days

¹ Rule 12(a)(3) provides: "A United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf must serve an answer to a complaint, counterclaim, or crossclaim within 60 days after service on the officer or employee or service on the United States attorney, whichever is later."

after service of the Amended Complaint to file a responsive pleading to individual capacity claims, and shall also within that time file any Motion to Dismiss the individual capacity claims. Fed. R. Civ. P. 12(a)(3). Plaintiffs may file their Opposition to any Motion to Dismiss as provided by the federal rules. The President may file a Reply to any Opposition. The Court will set a date for oral argument on the Motion to Dismiss the individual capacity claims, but may choose to decide the Motion on the papers without oral argument.

Despite the informal nature of this ruling, it shall constitute an Order of the Court and the Clerk is directed to docket it accordingly.

/s/
PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

cc: Court File