

In the United States Court of Federal Claims

No. 22-1729

(Filed: 6 December 2022)

NOT FOR PUBLICATION

PAUL GRABER,

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Plaintiff,

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v.

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THE UNITED STATES,

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Defendant.

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ORDER

HOLTE, Judge.

On 17 November 2022, *pro se* plaintiff Paul Graber filed a complaint. *See* Compl., ECF No. 1. On 28 November 2022, the Court ordered plaintiff to show cause why his claims should not be dismissed under Rule 12(h)(3) of the Rules of the Court of Federal Claims (“RCFC”), which provides “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” *See* Show Cause Order, ECF No. 5. The Court then received two filings from plaintiff, both deficient for failing to include the case caption and the name of the undersigned judge: (1) a document the Court construes as an amended complaint, received 30 November 2022; and (2) a letter addressed to the Clerk of Court, received 5 December 2022. “A party may amend its pleadings once as a matter of course within[] . . . 21 days after service of the pleading[.]” RCFC 15(a)(1)(A). As 21 days have not yet passed since the filing of plaintiff’s complaint, he is entitled to amend his complaint as a matter of course. The RCFC, however, do not provide for filing a letter to the Clerk. *See* RCFC.

After careful review of plaintiff’s amended complaint, which appears to be substantively identical to plaintiff’s original complaint except for the substitution of plaintiff’s son’s name for his own on the first page, the Court suspects it lacks jurisdiction over plaintiff’s claims. *See* Compl.; Show Cause Order at 1 (citing 28 U.S.C. § 1491(a)(1); *United States v. Sherwood*, 312 U.S. 584, 588 (1941); *Joshua v. United States*, 17 F.3d 378, 379 (Fed. Cir. 1994)).

The Court therefore **REJECTS** as deficient the letter received 5 December 2022; **DIRECTS** the Clerk to file the amended complaint received 30 November 2022 by leave of the Court; and **ORDERS** plaintiff to **SHOW CAUSE** on or before **10 January 2023** as to why this case should not be dismissed pursuant to RCFC 12(h)(3). In responding to this order, plaintiff must identify which source or sources of money-mandating law he is invoking, identify how his

claims are against the United States, and explain why the Court has jurisdiction over this case. The government **SHALL FILE** its response to plaintiff's brief within 30 days of the date plaintiff files his brief.

IT IS SO ORDERED.

s/ Ryan T. Holte
RYAN T. HOLTE
Judge