

**United States District Court
Northern District of Illinois – CM/ECF NextGen 1.7.1.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:23–cv–14491**

Chelmowski v. Federal Communication Commission
Assigned to: Honorable Matthew F. Kennelly
Cause: 05:552 Freedom of Information Act

Date Filed: 10/04/2023
Date Terminated: 03/19/2024
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

James Chelmowski

represented by **James Chelmowski**
705 W Central Rd
Mt. Prospect, IL 60056
PRO SE

V.

Defendant

**Federal Communication Commission
(FCC)**

represented by **Kurt N. Lindland**
United States Attorney's Office (NDIL – Chicago)
219 South Dearborn Street
Chicago, IL 60604
(312) 353–5300
Fax: Active
Email: kurt.lindland@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

AUSA – Chicago
United States Attorney's Office (NDIL – Chicago)
219 South Dearborn Street
Chicago, IL 60604
Fax: US Govt Attorney
Email: USAILN.ECFAUSA@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/04/2023	<u>1</u>	RECEIVED Complaint for declaratory and emergency injunctive relief by James Chelmowski. (daj,) (Entered: 10/04/2023)
10/04/2023	<u>2</u>	RECEIVED EXHIBITS by James Chelmowski. (daj,) (Entered: 10/04/2023)
10/04/2023	<u>3</u>	CIVIL Cover Sheet. (daj,) (Entered: 10/04/2023)
10/04/2023		CASE ASSIGNED to the Honorable Matthew F. Kennelly. Designated as Magistrate Judge the Honorable Gabriel A. Fuentes. FEE DUE, NO INFORMA PAUPERIS APPLICATION SUBMITTED. Case assignment: Random assignment. (Civil Category 2). (daj,) (Entered: 10/04/2023)
10/04/2023	4	<u>ORDER: Local Rule 3.3 requires that any document submitted for filing for which a filing fee is required must be accompanied either by the appropriate fee or an In Forma Pauperis Application and Financial Affidavit. No filing fee or IFP petition was submitted at the time of filing this matter. James Chelmowski is directed to pay the required filing fee or submit a completed In Forma Pauperis Application and Financial Affidavit within 15 days of this notification. Pursuant to LR 3.3(f), failure to comply with this order may result in sanctions, including dismissal of the action by the</u>

		<u>assigned judge. Signed by the Executive Committee. (daj.) (Entered: 10/04/2023)</u>
10/04/2023		CLERK'S NOTICE: Pursuant to Local Rule 73.1(b), a United States Magistrate Judge of this court is available to conduct all proceedings in this civil action. If all parties consent to have the currently assigned United States Magistrate Judge conduct all proceedings in this case, including trial, the entry of final judgment, and all post-trial proceedings, all parties must sign their names on the attached <u>Consent To form. This consent form is eligible for filing only if executed by all parties. The parties can also express their consent to jurisdiction by a magistrate judge in any joint filing, including the Joint Initial Status Report or proposed Case Management Order. (daj.) (Entered: 10/04/2023)</u>
10/04/2023		MAILED CLERK'S NOTICE: Pursuant to Local Rule 73.1(b), Consent form, Local Rule 3.3, IFP form to James Chelmowski. (daj.) (Entered: 10/04/2023)
10/05/2023	<u>5</u>	MINUTE entry before the Honorable Matthew F. Kennelly: Plaintiff has filed a complaint but has not paid the filing fee and also has not filed an application to proceed in forma pauperis (i.e. without prepaying the filing fee). Unless plaintiff does one or the other by 10/20/2023 the Court will dismiss the case for nonpayment of the filing fee. Mailed notice. (mma,) (Entered: 10/05/2023)
10/11/2023		SUMMONS Issued as to Federal Communication Commission, U.S. Attorney, and U.S. Attorney General (smb,) (Entered: 10/11/2023)
10/11/2023	<u>7</u>	COMPLAINT filed by James Chelmowski. (Exhibits) (jh,) (Entered: 10/23/2023)
11/15/2023	<u>8</u>	DESIGNATION of Kurt N. Lindland as U.S. Attorney for Defendant Federal Communication Commission (Lindland, Kurt) (Entered: 11/15/2023)
11/15/2023	<u>9</u>	MOTION by Defendant Federal Communication Commission for extension of time to file answer (Lindland, Kurt) (Entered: 11/15/2023)
11/16/2023	<u>10</u>	MINUTE entry before the Honorable Matthew F. Kennelly: Defendant's motion for extension of time <u>9</u> is granted. Response to complaint is to be filed by 1/9/2024. The case is set for an initial telephonic status hearing on 1/17/2024 at 8:45 AM. The following call-in number will be used for the hearing: 888-684-8852, conference code 746-1053. Plaintiff and attorney for defendant are directed to call in at that time. Mailed notice. (mma,) (Entered: 11/16/2023)
12/28/2023	<u>11</u>	ANNUAL REMINDER: Pursuant to <u>Local Rule 3.2 (Notification of Affiliates)</u> , <u>any nongovernmental party, other than an individual or sole proprietorship, must file a statement identifying all its affiliates known to the party after diligent review or, if the party has identified no affiliates, then a statement reflecting that fact must be filed. An affiliate is defined as follows: any entity or individual owning, directly or indirectly (through ownership of one or more other entities), 5% or more of a party. The statement is to be electronically filed as a PDF in conjunction with entering the affiliates in CM/ECF as prompted. As a reminder to counsel, parties must supplement their statements of affiliates within thirty (30) days of any change in the information previously reported. This minute order is being issued to all counsel of record to remind counsel of their obligation to provide updated information as to additional affiliates if such updating is necessary. If counsel has any questions regarding this process, this LINK will provide additional information. Signed by the Executive Committee on 12/28/2023; Mailed notice. (tg.) (Entered: 12/29/2023)</u>
01/09/2024	<u>12</u>	MOTION by Defendant Federal Communication Commission to dismiss <i>Defendant's Motion to Dismiss or Alternatively to Transfer Venue or Stay the Case</i> (Lindland, Kurt) (Entered: 01/09/2024)
01/09/2024	<u>13</u>	Memorandum in Support of Defendant's Motion to Dismiss or alternatively to Transfer Venue or Stay the Case by Federal Communication Commission (Lindland, Kurt) (Entered: 01/09/2024)
01/17/2024	<u>14</u>	MINUTE entry before the Honorable Matthew F. Kennelly: Telephonic status hearing held on 1/17/2024. Plaintiff failed to appear for the hearing. Plaintiff's response to the defendant's motion to dismiss or transfer <u>12</u> is due 2/7/2024; defendant's reply is due

		2/21/2024. Case is set for a telephonic status hearing on 2/29/2024 at 9:00 a.m. The following call-in number will be used for the hearing: 888-684-8852; access code 746-1053. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (mma,) (Entered: 01/17/2024)
01/24/2024	<u>15</u>	MOTION for extend time to Defendant's non-compliance pursuant to FRCP 12 failure to serve the Plaintiff by Plaintiff James Chelmowski. (Attachments: # <u>1</u> Proposed Order)(daj,) (Entered: 01/24/2024)
01/24/2024	<u>16</u>	CERTIFICATE of Service by Kurt N. Lindland on behalf of Federal Communication Commission regarding MOTION by Defendant Federal Communication Commission to dismiss <i>Defendant's Motion to Dismiss or Alternatively to Transfer Venue or Stay the Case</i> <u>12</u> , other <u>13</u> (Lindland, Kurt) (Entered: 01/24/2024)
01/25/2024	<u>17</u>	MINUTE entry before the Honorable Matthew F. Kennelly: Plaintiff's motion to extend time <u>15</u> is granted. The due date for plaintiff's response to defendant's motion to dismiss or transfer is extended to 2/14/2024. The deadline for defendant's reply is extended to 2/26/2024. Mailed notice. (mma,) (Entered: 01/25/2024)
01/25/2024	<u>18</u>	MOTION by Plaintiff James Chelmowski for default judgment. (Attachments: # <u>1</u> Proposed Order) (daj,) (Entered: 01/26/2024)
01/25/2024	<u>19</u>	DECLARATION of James Chelmowski in support of motion for entry of default. (daj,) (Entered: 01/26/2024)
01/29/2024	<u>20</u>	MINUTE entry before the Honorable Matthew F. Kennelly: Plaintiff's motion for entry of default judgment <u>18</u> is denied. The defendant timely filed a motion to dismiss under Fed. R. Civ. P. 12(b). Under Fed. R. Civ. P. 12(a)(4) the filing of that motion excuses the defendant from filing an answer to the complaint until after the motion to dismiss is resolved. Mailed notice. (mma,) (Entered: 01/29/2024)
02/14/2024	<u>21</u>	CERTIFICATE of Service by Kurt N. Lindland on behalf of Federal Communication Commission (Lindland, Kurt) (Entered: 02/14/2024)
02/15/2024	<u>22</u>	CONSENT MOTION by Plaintiff James Chelmowski for extension of time to respond to Defendant's motion for dismiss or alternatively to transfer venue of stay the case. (Proposed order) (daj,) (Entered: 02/15/2024)
02/20/2024	<u>23</u>	MINUTE entry before the Honorable Matthew F. Kennelly: Plaintiff's consent motion to extend time <u>22</u> is granted. Due date for response to motion to dismiss or transfer is extended to 2/26/2024. Due date for defendant's reply to the response is extended to 3/8/2024. Telephonic status hearing set for 2/29/2024 is vacated and reset to 3/19/2024 at 8:50 AM. The following call-in number will be used for the hearing: 888-684-8852; access code 746-1053. Mailed notice. (mma,) (Entered: 02/20/2024)
02/26/2024	<u>24</u>	CONSENT MOTION by Plaintiff James Chelmowski for extend time to respond to Defendant's motion to dismiss or alternatively, to transfer venue or stay the case. (Proposed order included) (daj,) (Entered: 02/26/2024)
02/27/2024	<u>25</u>	ORDER: Plaintiff's agreed motion for extension of time <u>24</u> is granted; response to motion to dismiss or transfer is to be filed by 3/1/2024. This is the final extension. If no response is filed by 3/1/2024, the Court will rule on the motion to dismiss or transfer without the benefit of plaintiff's views. Reply to response is to be filed by 3/18/2024. Signed by the Honorable Matthew F. Kennelly on 2/27/2024: Mailed notice (daj,) (Entered: 02/27/2024)

03/01/2024	<u>26</u>	CONSENT MOTION by Plaintiff James Chelmowski for extend time to respond to defendant's motion for dismiss or alternatively, to transfer venue or stay the case <u>12</u> . (Attachment: Proposed Order) (rc,) (Entered: 03/04/2024)
03/05/2024	<u>27</u>	MINUTE entry before the Honorable Matthew F. Kennelly: The Court gave plaintiff a final extension of time to 3/1/2024 to file a response to defendant's motion to dismiss or transfer. The plaintiff did not file his response on the date ordered but instead filed on 3/4/2024 a motion asking for a one-day extension (to 3/4/2024) to file his response. But plaintiff still did not file the response on that date. Plaintiff's motion <u>26</u> is denied as untimely. Mailed notice. (mma,) (Entered: 03/05/2024)
03/05/2024	<u>28</u>	PLAINTIFF'S OPPOSITION to Defendant's Motion for Dismiss or Alternatively, to Transfer Venue or Stay the Case (Oral Hearing Requested) (Exhibits)(Received via pro se email on 03/05/2024). <u>12</u> (smb,) (Entered: 03/05/2024)
03/06/2024	<u>29</u>	MINUTE entry before the Honorable Matthew F. Kennelly: At the Court's instance plaintiff is granted leave to file instanter (on 3/5/2024) his response to defendant's motion to dismiss or transfer. Mailed notice. (mma,) (Entered: 03/06/2024)
03/18/2024	<u>30</u>	REPLY by Defendant Federal Communication Commission <i>Reply in Support of Defendant's Motion to Dismiss or Alternatively, to Transfer Venue or Stay the Case</i> (Lindland, Kurt) (Entered: 03/18/2024)
03/19/2024	<u>31</u>	MINUTE entry before the Honorable Matthew F. Kennelly: Telephonic status hearing held on 3/19/2024. Plaintiff failed to appear for the hearing. Defendant's motion to dismiss <u>12</u> is taken under advisement. Mailed notice. (mma,) (Entered: 03/19/2024)
03/19/2024	<u>32</u>	MINUTE entry before the Honorable Matthew F. Kennelly: James Chelmowski has filed a pro se lawsuit in which he alleges the Federal Communications Commission violated the Freedom of Information Act (FOIA) and the Privacy Act in processing his request for information regarding its response to one of his prior FOIA requests. Mr. Chelmowski has a pending lawsuit regarding the earlier FOIA request in the US District Court for the District of Columbia (the D.C. lawsuit). The FCC has moved to dismiss this case as partially duplicative of the D.C. lawsuit or to transfer this case to that District. The Court concludes that Mr. Chelmowski's claims in this lawsuit overlap with his claims in the D.C. lawsuit. As the FCC argues the two cases involve the same parties and nearly identical FOIA and Privacy Act claims. Thus they are largely duplicative. A court may dismiss a case for reasons of wise judicial administration if it is duplicative of a parallel action pending in another federal court. See <i>McReynolds v. Merrill Lynch & Co.</i> 694 F.3d 873 at 888–89 (7th Cir. 2012). That is the case here; the claims in the two cases do not significantly differ. The judge presiding over the D.C. lawsuit recently issued a ruling that disposed of some of the issues in that case. But the ruling did not dispose of the case in its entirety; it is still pending. Mr. Chelmowski is not entitled to maintain duplicative lawsuits in different courts involving the same or overlapping underlying conduct. For these reasons the Court grants defendant's motion to dismiss <u>12</u> and dismisses this case without prejudice as duplicative of Mr. Chelmowski's D.C. lawsuit. The Clerk is directed to enter judgment dismissing the case without prejudice. Civil case terminated. Mailed notice. (mma,) (Entered: 03/19/2024)
03/19/2024	<u>33</u>	ENTERED JUDGMENT. Mailed notice. (mma,) (Entered: 03/19/2024)