

UNITED STATES COURT OF FEDERAL CLAIMS

JOSHUA J. ANGEL,)	
)	
Plaintiff,)	Case No. 25-2040C
)	(Judge Robin M. Meriweather)
v.)	
)	
THE UNITED STATES,)	
)	
Defendant.)	

**PLAINTIFF’S MOTION FOR RECONSIDERATION OF
THE OPINION AND ORDER OF APRIL 23, 2026**

Pursuant to Rule 59 of the Rules of the United States Court of Federal Claims, Plaintiff Joshua J. Angel (“Plaintiff”) respectfully requests that the Court reconsider the Opinion and Order filed April 23, 2026 (the “Opinion and Order”). The grounds for this reconsideration are that after *sua sponte* entering an Order To Show Cause directing Plaintiff to file a response showing “why the present case should not be dismissed for lack of subject matter jurisdiction with prejudice” and “why the Court should not enter an anti-filing injunction” “**no later than May 1, 2026**” (emphasis in original), the Court apparently misapprehended the nature of Plaintiff’s filing on April 9, 2026 as having addressed whether the Court had subject matter jurisdiction. It thus ruled on the United States’ Motion to Dismiss the complaint without affording Plaintiff the opportunity to respond to the Motion to Dismiss or to that portion of the

Order To Show Cause why the present case should not be dismissed for lack of subject matter jurisdiction with prejudice. Whatever the merits of the Government's Motion to Dismiss and the ultimate resolution of it, cutting off Plaintiff's opportunity to respond substantively to it was a denial of fundamental fairness. Plaintiff respectfully requests that the Court vacate the Opinion and Order and allow Plaintiff to file his opposition to the Government's Motion to Dismiss before ruling on the Motion.

PROCEDURAL HISTORY

Plaintiff filed this action on December 1, 2025. (Dkt. # 1.) The United States filed a Motion to Dismiss pursuant to Rules 12(b)(1) and (6) on February 6, 2026 (the "Motion to Dismiss"). (Dkt. # 7.) An unopposed Motion for Extension of Time filed by Plaintiff resulted in a Minute Order entered by the Court extending Plaintiffs time to respond to the Motion to Dismiss until May 1, 2026. (Dkt. # 8 and entry on March 2, 2026.) On April 3, 2026, the Court *sua sponte* entered an Order To Show Cause directing Plaintiff to file a response showing "why the present case should not be dismissed for lack of subject matter jurisdiction with prejudice" and "why the Court should not enter an anti-filing injunction" "**no later than May 1, 2026.**" (Dkt. #9, emphasis in original.)

On April 9, 2026, Plaintiff filed what the Court described as his "Second MOTION for Extension of Time until May 31, 2026 to File Response as to 7 MOTION to Dismiss pursuant to Rules 12(b)(1) and (6)" (the "Second Motion for Extension of Time"). (Dkt. # 10.)¹ As

¹ The quoted language is as stated on the Court's Docket; the title given by Plaintiff to the filing is "Plaintiff's Consensual Motion For An Enlargement Of Period Within Which To Respond To Defendant's Motion To Dismiss, And Response To Court Sua Sponte Order To Show Cause."

discussed further below, the Second Motion for Extension of Time was not intended to be, and cannot fairly be read to be, a substantive response to the Motion to Dismiss.

The Court entered its Opinion and Order dismissing Plaintiff's case in its entirety and with prejudice on April 23, 2026 (Dkt. # 11), and the Clerk accordingly on April 24, 2026, entered Judgment pursuant to Rule 58 dismissing the case (Dkt. # 12). On April 27, 2026, Plaintiff filed a Motion for Reconsideration of the Opinion and Order (Dkt. # 13); this present motion, filed within the time prescribed by Rule 59, supersedes that one.

ARGUMENT

The Court improperly filed its Opinion and Order on April 23, 2026, seven days before the May 1, 2026, deadline set by the Court for Plaintiff to respond to the Motion to Dismiss. The May 1, 2026, deadline was set both in the Court's Minute Order of January 30, 2026, and in the Order To Show Cause. Apparently, the Court mistook the Second Motion for Extension of Time as an early filing responding to substantive arguments of the Motion to Dismiss. The Opinion and Order lists three filings as relevant to its Opinion: the Complaint, the Motion to Dismiss, and Second Motion for Extension of Time. (Opinion and Order, Dkt. # 11, at p. 1, n. 1.)

The Second Motion for Extension of Time, however, was not a substantive response to the arguments in the Motion to Dismiss, and in particular to the conclusion that this Court lacks subject matter jurisdiction over Plaintiff's claims. The Second Motion for Extension of Time consists almost entirely of Plaintiff's recitation of the settlement posture of the case and his view of why an extension of time to respond to the Motion to Dismiss was warranted. The Second Motion for Extension of Time makes no substantive arguments whatsoever on the question of whether this Court has subject matter jurisdiction over Plaintiff's claims, because of statute of

limitations issues or otherwise. Plainly, Plaintiff intended to submit his arguments as to why the Motion to Dismiss should be denied in a later substantive filing, either at the extended date requested or on May 1, 2026 as originally ordered if the Court denied Plaintiff's motion for an extension.

The Court, of course, has plenary authority over its own docket, including the timing of motions, and it is well within a Court's discretion to deny a plaintiff's request for an extension of time and require a response to a substantive motion by a certain date or forfeit his rights to respond. That is not what this Court did, however. Rather, the Court ruled on the Motion to Dismiss a full week before the deadline set by the Court for a response.

It is also true that the Court of Federal Claims has the authority, in certain circumstances, to *sua sponte* dismiss a complaint for lack of subject matter jurisdiction. *See, e.g., Allen v. United States*, 88 F.4th 983 (Fed. Cir. 2023). This, though, is not that circumstance. In this case, the Court set an explicit deadline, May 1, for Plaintiff to respond to the Motion to Dismiss and the question of whether this Court has subject matter jurisdiction. The Second Motion for Extension of Time was not a response to that question. Having entered multiple orders (on March 2, 2026, and April 3, 2026) giving Plaintiff until May 1, 2026, to respond to this question, it is, respectfully, fundamentally unfair for the Court to cut off Plaintiff's right to reply to the Motion to Dismiss without notice and instead summarily dismiss the case with prejudice. *Cf., e.g., ArthroCare Corp. v. Smith & Nephew, Inc.*, 406 F.3d 1365, 1369 (Fed. Cir. 2005) (as a general matter, even if not strictly required, when a Court sets a schedule or other procedure, it should not alter it *sua sponte* and issue a binding decision on the merits without giving a party adversely affected by that decision a meaningful opportunity to be heard).

CONCLUSION

Accordingly, for the foregoing reasons, Plaintiff respectfully requests that this Court reconsider its Opinion and Order, withdraw the Opinion and Order, and set a new deadline for Plaintiff to respond to the Motion to Dismiss and the Order to Show Cause.

Dated: May 11, 2026

Respectfully submitted,
JOSHUA J. ANGEL PLLC

/s/Joshua J. Angel
By: Joshua J. Angel
Attorney for Plaintiff
9 East 79^m Street
New York, New York 10075
Tel: (917) 710-2107
Email: joshuaangelnyc@gmail.com

Of Counsel:
David G. Epstein depstein@richmond.edu