



have repeatedly dismissed as frivolous, claims like those asserted in the complaint filed in this case, *see id.* at ECF p. 1; and the response having indicated that the complaint was drafted with “mostly . . . FACTS [sic] (scientific and historic)” to avoid a determination that the complaint was frivolous, *see id.*;<sup>3</sup> and the response having also indicated that all “possible avenues for recourse” have been exhausted prior to filing this action, *see id.* (capitalization omitted); and the response having seemingly stated that the complaint is actually in *mandamus*, insofar as the plaintiff is “NOT alleging that [the defendants] are the ones responsible [for the actions described in the complaint] or involved in any way . . . because [the plaintiff] believe[s] this is likely a private enterprise,” *id.* at ECF pp. 1–2; and the plaintiff emphasizing that there is nowhere else for it to go to obtain relief, *see id.* at ECF pp. 2, 3; and the plaintiff explaining that

[t]he ONLY reason I have filed this Federal suit is because I have exhausted ALL known possible options for relief. My life, liberty, and pursuit of happiness are being denied with electronic warfare weapons and tactics. With EVERYTHING I present I find it outrageous that I have still not spoken in person with ANYONE with regards to what has occurred to me to date. There are over 10,000+ similar cases filed and ALL have been denied even to be heard in person. FACTS: I have non-consenting implants, I have lost a lot of time and money continuing to be attacked, I have knowledge as to technology and tactics (which continue to evolve: why not the response”). I truly just want to be LEFT ALONE IN MY OWN HOME. I have approached sever different law enforcement agencies to look into my situation. There is NO GOOD way to contact anyone in this field in the FEDERAL GOVERNMENT. This is really my LAST RESORT and I plead with the court to NOT DENY HUMAN FREE WILL![,]

*id.* at ECF p. 3; and

**THE RESPONSE HAVING** also addressed the court’s concern about the plaintiff’s failure to have licensed counsel representing it in this matter, *see id.* at ECF p. 2; and the response

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<sup>3</sup> The response identifies a definition of frivolous seemingly from the Legal Information Institute, which purportedly defines “[a] frivolous claim . . . [as a] motion or appeal that is intended to harass, delay or embarrass the opposition.” Doc. No. 8 at ECF p. 1 (emphasis omitted). The response seems to believe that this action cannot be frivolous because it is not intended to embarrass anyone. *See id.* (“Now that I have the definition [of frivolous], the argument is about *embarrassment* (why?).”). The court notes that the court’s reference to the frivolousness of the instant action relates to its lack of merit and not to any concern about embarrassing an opposing party. *See Black’s Law Dictionary* (11th ed. 2019) (defining frivolous as “[l]acking a legal basis or legal merit; manifestly insufficient as a matter of law”).

indicating that the plaintiff does not have licensed counsel because it cannot afford it, *see id.*; and the response having also indicated that the “goal” of this action is “NOT to accuse any specific entities but to have specific leaders and their representatives aware of the existence of this technology and with this knowledge they can hopefully NOT become victims and hopefully they can assist common folk,” *id.*; and the response having requested that the court allow this action to proceed with “this public facing name as the plaintiff and continue the discussion until forced to refile as under an executive’s name or another victim’s,” *id.*; and

**THE COURT FINDING THAT**, for the reasons stated in the court’s November 28, 2022 memorandum opinion (Doc. No. 5),<sup>4</sup> (1) the court lacks subject-matter jurisdiction over this action<sup>5</sup> and (2) the plaintiff may not proceed in this case because it is a non-profit corporation that does not have licensed counsel representing it;<sup>6</sup> accordingly, it is hereby **ORDERED** as follows:

1. This action is **DISMISSED** for lack of subject-matter jurisdiction and for the plaintiff’s failure to have licensed counsel to represent it in this action; and

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<sup>4</sup> The memorandum opinion is incorporated by reference into this order.

<sup>5</sup> To the extent that the plaintiff is now contending that this is a *mandamus* action, it still would not alter the court’s basis for determining that the court lacks subject-matter jurisdiction over this action, as outlined in the November 28, 2022 Memorandum Opinion. *See* Mem. Op. at 5–8 & n.3. In this regard, the court notes that, theoretically, the court could exercise subject-matter jurisdiction over a request for a writ of *mandamus* against an officer of the United States. *See* 28 U.S.C. § 1361 (“The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.”). Nonetheless, as previously explained, the plaintiff cannot establish federal jurisdiction in this case because “the right claimed [in the complaint] is so insubstantial, implausible, foreclosed by prior decisions of this Court, or otherwise completely devoid of merit as not to involve a federal controversy.” *Kulick v. Pocono Downs Racing Ass’n*, 816 F.2d 895, 899 (3d Cir. 2017) (citation and internal quotation marks omitted); *see also Poblete v. U.S. Marshals Service*, 207 F. Supp. 3d 1, 2–3 (D.D.C. 2016) (dismissing *sua sponte*, action where plaintiff sought writ of *mandamus* to stop state court proceedings because complaint was “patently insubstantial, presenting no federal question suitable for decision” (citation and internal quotation marks omitted)); *Mohamed v. Dorochoff*, No. 11 C 1610, 2011 WL 4496228, at \*3 (N.D. Ill. Sept. 22, 2011) (explaining that “the proper test for determining subject matter jurisdiction over a mandamus action is whether the claim is either clearly ‘immaterial and made solely for the purpose of obtaining jurisdiction’ or ‘wholly insubstantial or frivolous.’” (quoting *Bell v. Hood*, 327 U.S. 678, 682–83 (1946))).

<sup>6</sup> While the court sympathizes with Mr. Day’s assertion that the plaintiff lacks the funds to afford counsel, there are numerous individuals and entities who provide *pro bono* representation. At bottom, regardless of the reason for not having counsel to represent it, the plaintiff may not proceed in this case without licensed counsel. As such, the court must dismiss the case on this basis as well.

2. The clerk of court shall **MARK** this case as **CLOSED**.

BY THE COURT:

/s/ Edward G. Smith  
EDWARD G. SMITH, J.