

APPENDICES:

Appendix A – Per Curiam of the United States Court of Appeals for the Fourth Circuit Unpublished opinion; Notice of Judgment; and Judgment:

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 22-1613

DORA L. ADKINS,

Plaintiff - Appellant,

v.

TYSON'S LODGING, LLC,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Anthony John Trenga, Senior District Judge. (1:22-cv-00553-AJT-WEF)

Submitted: August 23, 2022

Decided: August 25, 2022

Before GREGORY, Chief Judge, HEYTENS, Circuit Judge, and KEENAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Dora L. Adkins, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dora L. Adkins appeals the district court's order adopting the recommendation of the magistrate judge and denying her request for leave to file an emergency complaint and the court's order construing her motion for leave to file an amended emergency complaint as a Fed. R. Civ. P. 60 motion and denying it. We have reviewed the record and find no reversible error. Accordingly, we affirm. *Adkins v. Tyson's Lodging, LLC*, No. 1:22-cv-00553-AJT-WEF (E.D. Va. filed May 31, 2022, entered June 1, 2022; June 8, 2022). We grant Adkins' motion to replace her informal brief, treat her motion regarding Rule 60 as a motion to supplement her informal brief and grant that motion, and deny her motion to vacate. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-1613, Dora Adkins v. Tyson's Lodging, LLC
1:22-cv-00553-AJT-WEF

NOTICE OF JUDGMENT

Judgment was entered on this date in accordance with Fed. R. App. P. 36. Please be advised of the following time periods:

PETITION FOR WRIT OF CERTIORARI: The time to file a petition for writ of certiorari runs from the date of entry of the judgment sought to be reviewed, and not from the date of issuance of the mandate. If a petition for rehearing is timely filed in the court of appeals, the time to file the petition for writ of certiorari for all parties runs from the date of the denial of the petition for rehearing or, if the petition for rehearing is granted, the subsequent entry of judgment. See Rule 13 of the Rules of the Supreme Court of the United States; www.supremecourt.gov.

VOUCHERS FOR PAYMENT OF APPOINTED OR ASSIGNED COUNSEL: Vouchers must be submitted within 60 days of entry of judgment or denial of rehearing, whichever is later. If counsel files a petition for certiorari, the 60-day period runs from filing the certiorari petition. (Loc. R. 46(d)). If payment is being made from CJA funds, counsel should submit the CJA 20 or CJA 30 Voucher through the CJA eVoucher system. In cases not covered by the Criminal Justice Act, counsel should submit the Assigned Counsel Voucher to the clerk's office for payment from the Attorney Admission Fund. An Assigned Counsel Voucher will be sent to counsel shortly after entry of judgment. Forms and instructions are also available on the court's web site, www.ca4.uscourts.gov, or from the clerk's office.

BILL OF COSTS: A party to whom costs are allowable, who desires taxation of costs, shall file a Bill of Costs within 14 calendar days of entry of judgment. (FRAP 39, Loc. R. 39(b)).

PETITION FOR REHEARING AND PETITION FOR REHEARING EN

BANC: A petition for rehearing must be filed within 14 calendar days after entry of judgment, except that in civil cases in which the United States or its officer or agency is a party, the petition must be filed within 45 days after entry of judgment. A petition for rehearing en banc must be filed within the same time limits and in the same document as the petition for rehearing and must be clearly identified in the title. The only grounds for an extension of time to file a petition for rehearing are the death or serious illness of counsel or a family member (or of a party or family member in pro se cases) or an extraordinary circumstance wholly beyond the control of counsel or a party proceeding without counsel.

Each case number to which the petition applies must be listed on the petition and included in the docket entry to identify the cases to which the petition applies. A timely filed petition for rehearing or petition for rehearing en banc stays the mandate and tolls the running of time for filing a petition for writ of certiorari. In consolidated criminal appeals, the filing of a petition for rehearing does not stay the mandate as to co-defendants not joining in the petition for rehearing. In consolidated civil appeals arising from the same civil action, the court's mandate will issue at the same time in all appeals.

A petition for rehearing must contain an introduction stating that, in counsel's judgment, one or more of the following situations exist: (1) a material factual or legal matter was overlooked; (2) a change in the law occurred after submission of the case and was overlooked; (3) the opinion conflicts with a decision of the U.S. Supreme Court, this court, or another court of appeals, and the conflict was not addressed; or (4) the case involves one or more questions of exceptional importance. A petition for rehearing, with or without a petition for rehearing en banc, may not exceed 3900 words if prepared by computer and may not exceed 15 pages if handwritten or prepared on a typewriter. Copies are not required unless requested by the court. (FRAP 35 & 40, Loc. R. 40(c)).

MANDATE: In original proceedings before this court, there is no mandate. Unless the court shortens or extends the time, in all other cases, the mandate issues 7 days after the expiration of the time for filing a petition for rehearing. A timely petition for rehearing, petition for rehearing en banc, or motion to stay the mandate will stay issuance of the mandate. If the petition or motion is denied, the mandate will issue 7 days later. A motion to stay the mandate will ordinarily be denied, unless the motion presents a substantial question or otherwise sets forth good or probable cause for a stay. (FRAP 41, Loc. R. 41).

FILED: August 25, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-1613
(1:22-cv-00553-AJT-WEF)

DORA L. ADKINS

Plaintiff - Appellant

v.

TYSON'S LODGING, LLC

Defendant - Appellee

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

Appendix B – In the U. S. District Court for the Eastern District of Virginia, Pre-Filing Orders; and Order as Final Orders, Dated, May 31, 2022, & June 8, 2022

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

DORA L. ADKINS,

Plaintiff,

v.

TYSON'S LODGING, LLC,

Defendant.

Civil Action No. 1:22-cv-553 (AJT/WEF)

ORDER

Pending before the Court is the Report & Recommendation of Magistrate Judge Fitzpatrick [Doc. No. 3] recommending that Plaintiff Dora L. Adkins' Motion for Leave from the Court to File an Emergency Complaint (the "Motion") [Doc. No. 1] and Application to Proceed in District Court Without Prepaying Costs or Fees ("IFP Motion") [Doc. No. 2] be denied. The Magistrate Judge advised the Plaintiff that objections to the Report and Recommendation must be filed within fourteen (14) days of service and that failure to object waives appellate review. [Doc. No. 3 at 4.] Plaintiff timely filed objections to the Report and Recommendation on May 23, 2022, and May 25, 2022. [Doc. Nos. 4-5.]

Having conducted a *de novo* review of the record, the Court adopts and incorporates the findings and recommendations of the Magistrate Judge in full. On October 1, 2021, this Court entered a Pre-Filing Injunction Order against Ms. Adkins in a separate case, *Adkins v. Hyatt Corp.*, 1:20-cv-1410-AJT-MSN, based on Ms. Adkins's "extensive history of filing unsubstantiated lawsuits for the alleged injuries connected to food or chemical poisoning." *Adkins v. Hyatt Corp.*, 1:20-cv-1410-AJT-MSN, [Doc. No. 41] at 4. The Order also enjoined Ms. Adkins from filing any complaints in this court without pre-filing leave of this Court. *Id.* Here, Plaintiff alleges food and

chemical poisoning stemming from her stay at Defendant's hotel, facts and circumstance like those previously rejected by this Court. *See, e.g., Adkins v. Merrifield Hotel Associates, L.P.*, 1:22-cv-399-AJT-IDD, [Doc. No. 3] at 1. Accordingly, it is hereby

ORDERED that the Report and Recommendation, [Doc. No. 3], be, and the same hereby is, **ADOPTED**; and it is further

ORDERED Motion for Leave from the Court to File an Emergency Complaint [Doc. No. 1] is **DENIED**; it is further

ORDERED that the Application to Proceed in District Court Without Prepaying Costs or Fees [Doc. No. 2] is **DENIED**.

This is a Final Order for the purposes of appeal. To appeal, Plaintiff must file a written notice of appeal with the Clerk's Office within thirty (30) days of the date of this Order. A written notice of appeal is a short statement stating a desire to appeal this Order and noting the date of the Order Plaintiff wants to appeal. Plaintiff need not explain the grounds for appeal until so directed by the court.

The Clerk is directed to mail a copy of this Order to *pro se* Plaintiff and counsel of record.



Anthony J. Trenga
United States District Judge

Alexandria, Virginia
May 31, 2022

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

DORA L. ADKINS,

Plaintiff.

v.

TYSON'S LODGING, LLC,

Defendant.

Civil Action No. 1:22-cv-553 (AJT/WEF)

ORDER

Pending before the Court is Plaintiff Dora L. Adkins' Motion for Leave from the Court to File an Amended Emergency Complaint (the "Motion") [Doc. No. 11]. On May 31, 2022, the Court entered an Order [Doc. No. 8] adopting the Magistrate Judge's Report and Recommendation and denying Plaintiff's Motion for Leave from the Court to File an Emergency Complaint [Doc. No. 1] and Application to Proceed in District Court Without Prepaying Costs or Fees [Doc. No. 2]. The Order served as a final order terminating the proceeding.¹ Therefore, the Court construes Plaintiff's Motion as a motion for relief from a judgement or order pursuant to Rule 60 of the Federal Rules of Civil Procedure.

Plaintiff fails to identify any grounds upon which the Court should vacate its earlier order and allow Plaintiff to file the proposed amended complaint. For example, Plaintiff does not argue that there has been a mistake, fraud, or newly discovered evidence. Nor does Plaintiff proffer any other reason that would justify vacating the Court's previous order. Moreover, from a review of the proposed amended complaint, many of the core allegations remain completely unchanged. Plaintiff continues to seek relief for harms allegedly caused by food and chemical poisoning

¹ The Order also informed Plaintiff of her appeal rights, which Plaintiff has since exercised. [Doc. No. 12.]

stemming from her stay at Defendant's hotel. As such, Plaintiff's proposed amended complaint is still subject to the Court's pre-filing injunction. *Adkins v. Hyatt Corp.*, 1:20-cv-1410-AJT-MSN, [Doc. No. 41] at 4. Therefore, upon consideration of the Motion, Rule 60, and for the reasons stated in the Court's previous Order, it is hereby

ORDERED Plaintiff Dora L. Adkins' Motion for Leave from the Court to File an Amended Emergency Complaint (the "Motion") [Doc. No. 11] is **DENIED**.

This is a Final Order for the purposes of appeal. To appeal, Plaintiff must file a written notice of appeal with the Clerk's Office within thirty (30) days of the date of this Order. A written notice of appeal is a short statement stating a desire to appeal this Order and noting the date of the Order Plaintiff wants to appeal. Plaintiff need not explain the grounds for appeal until so directed by the court.

The Clerk is directed to mail a copy of this Order to *pro se* Plaintiff and counsel of record.



Anthony J. Trenga
United States District Judge

Alexandria, Virginia
June 8, 2022