

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

JOHN BURTON,

Plaintiff,

v.

Case No: 8:23-cv-1372-CEH-SPF

UNITED STATES OF AMERICA,
DENNIS RICHARD MCDONOUGH
and DEPARTMENT OF VETERANS
AFFAIRS,

Defendants.

ORDER

This matter comes before the Court on Plaintiff John Burton's Motion to Certify Class (Doc. 27). In the motion, Burton, who is proceeding *pro se*,¹ asks to certify a class of similarly-situated individuals in connection with his claim against the Department of Veterans Affairs.

The motion is due to be denied without prejudice because it is premature. Defendants have not appeared in this action or filed a responsive pleading, and discovery has not yet commenced. *See, e.g., Rensel. Centra Tech, Inc.*, 2 F.4th 1359, 1366 (11th Cir. 2021) (noting that motion for class certification would have been denied as premature if plaintiff had filed it earlier, before discovery of new claims occurred);

¹ Burton has filed two motions to appoint counsel that are currently pending before Magistrate Judge Flynn. Docs. 25, 26. Judge Flynn has denied two prior requests by Burton to appoint counsel, finding that no exceptional circumstances exist to justify the appointment of counsel. *See* Docs. 13, 15, 19, 21.

Dickerson Laboratory Corp. of Am., Inc., No. 8:14-cv-1390, 2014 WL 12774194, *1 (M.D. Fla. July 23, 2014) (Moody, J.) (“Plaintiff’s motion for class certification is premature. It was filed prior to a response from Defendant and prior to the commencement of discovery.”).²

In addition, this action cannot proceed because Burton has neither paid the requisite filing fee for this civil action³ nor filed a renewed motion to proceed *in forma pauperis*. This Court denied Burton’s first motion to proceed *in forma pauperis* on May 15, 2024, and directed him to file a renewed motion to proceed *in forma pauperis* along with an Amended Complaint. *See* Doc. 16. Although Burton filed an Amended Complaint, he has not filed a renewed motion to proceed *in forma pauperis*. He will be granted one additional opportunity to do so.

Accordingly, it is **ORDERED**:

1. Plaintiff John Burton’s Motion to Certify Class (Doc. 27) is **DENIED** without prejudice as premature.

² Further, to the extent Burton is proceeding *pro se*, he is not permitted to bring claims on behalf of others, including on behalf of a putative class. *See, e.g., Timson v. Sampson*, 518 F.3d 870, 873 (11th Cir. 2008) (the statute that permits a party to proceed *pro se* provides “a personal right that does not extend to the representation of the interests of others.”) (citing 28 U.S.C. § 1654); *Hurley v. Sec’y, Dep’t of Corrections*, No. 8:23-cv-327-MSS-NHA, 2024 WL 343111, *3 (M.D. Fla. Jan. 30, 2024) (denying construed motion for class certification by *pro se* plaintiff); *Young v. Scott*, No. 2:16-cv-581-JES-CM, 2016 WL 4441581, *3 (M.D. Fla. Aug. 23, 2016) (same).

³ The United States District Court for the Middle District of Florida’s fee schedule is located at the following hyperlink: <https://www.flmd.uscourts.gov/fees-for-filing-a-case>. The fee for filing a civil action is Four Hundred Two Dollars and No Cents (\$402.00). A plaintiff who cannot afford the filing fee must file an application to proceed without paying costs (a motion to proceed *in forma pauperis*), which is available at the following hyperlink: <https://www.flmd.uscourts.gov/forms/all/civil-forms>.

2. Plaintiff must pay the filing fee for this action or file a renewed motion to proceed *in forma pauperis* within **TWENTY-ONE (21) DAYS** from the date of this Order. **Failure to pay the filing fee or to move to proceed *in forma pauperis* within the time provided may result in the dismissal of this action, without prejudice, without further notice.**

DONE and ORDERED in Tampa, Florida on August 26, 2024.


Charlene Edwards Honeywell
United States District Judge

Copies furnished to:

Counsel of Record
Unrepresented Parties