

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

VICTOR DIMAIO,

Plaintiff,

v.

CASE NO: 8:07-cv-1552-T-26MAP

DEMOCRATIC NATIONAL
COMMITTEE and FLORIDA
DEMOCRATIC PARTY,

Defendants.

ORDER

Plaintiff has filed his response to Defendants' motions to dismiss which includes a motion for summary judgment pursuant to Rule 56(b), Federal Rules of Civil Procedure.¹ Although the motion is technically in compliance with Rule 56(a) because the Defendants have now been served and 20 days have elapsed since the commencement of this action, the Court nevertheless is of the opinion that consideration of the merits of the substantive issues raised by Plaintiff should be deferred until such time as the Court has resolved the Defendants' contentions that Plaintiff has failed to state a claim for relief, that Plaintiff lacks standing, and that this Court lacks subject matter jurisdiction. Accordingly,

¹ As noted in this Court's order of September 5, 2007, the proper rule designation should be Rule 56(a) because Plaintiff is seeking to recover upon a claim. See docket 5, page 2, note 1.

Plaintiff's Motion for Summary Judgment (Dkt. 13) is denied without prejudice to being renewed depending on the Court's disposition of Defendants' motions to dismiss.

DONE AND ORDERED at Tampa, Florida, on September 26, 2007.

s/Richard A. Lazzara

RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

COPIES FURNISHED TO:
Counsel of Record