

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWAYNE HOOSIER,
#197620,
Plaintiff,

v.

Case No. 2:16-CV-10688
District Judge Denise Page Hood
Magistrate Judge Anthony P. Patti

WENDY LIU, *et al.*,
Defendants.

**OPINION AND ORDER GRANTING PLAINTIFF'S REQUEST TO
AMEND COMPLAINT (DE 48), REQUIRING THE CLERK TO
SUBSTITUTE NAME FOR JANE DOE, AND DIRECTING SERVICE BY
THE U.S. MARSHAL**

This matter is before the Court for consideration of Plaintiff Dwayne Hoosier's request to file an amended complaint. (DE 48.) The Court will interpret Plaintiff's request as a motion to amend the complaint. For the reasons that follow, Plaintiff's Motion is **GRANTED** pursuant to the limitations outlined below.

I. BACKGROUND

Plaintiff, a state prisoner proceeding without the assistance of counsel, filed his Complaint and Application to Proceed Without Prepayment of Fees on February 24, 2016, bringing claims under 42 U.S.C. § 1983. (DE 1, 2.) Plaintiff alleges claims of deliberate indifference to his medical needs, leading to a diagnosis of ulcerative colitis and complications from medications prescribed to

him. (DE 1.) He named eleven defendants in his complaint, one of which is listed as Jane Doe, and all appear to be medical professionals who treated him during his various illnesses. To date, the ten named defendants have been served, and four of those ten defendants have been dismissed. Plaintiff now seeks leave to amend the complaint to substitute LPN Sears for the Jane Doe defendant in his Complaint. Specifically, Plaintiff seeks to substitute LPN Sears for Jane Doe in paragraphs 9, 74-76, and 78 of the Statement of Facts, paragraph 164 of the Statement of Claims, and paragraph c of the Relief Requested sections of his Complaint. (DE 48.)

II. STANDARD

Under Federal Rule of Civil Procedure 15(a), a party may amend its pleadings at this stage of the proceedings only after obtaining leave of court. The Rule provides that the Court should freely give leave for a party to amend its pleading “when justice so requires.” Fed. R. Civ. P. 15(a)(2). “Nevertheless, leave to amend ‘should be denied if the amendment is brought in bad faith, for dilatory purposes, results in undue delay or prejudice to the opposing party, or would be futile.’” *Carson v. U.S. Office of Special Counsel*, 663 F.3d 487, 495 (6th Cir. 2011) (quoting *Crawford v. Roane*, 53 F.3d 750, 753 (6th Cir. 1995)).

In addition, the Local Rules of the Eastern District of Michigan require a party moving to amend a pleading to “attach the proposed amended pleading to the motion.” E.D. Mich. LR 15.1. Any amendment to a pleading must “reproduce the

entire pleading as amended, and may not incorporate any prior pleading by reference.” *Id.*

III. ANALYSIS

The Court concludes that, under the liberal amendment standard outlined in Rule 15(a)(2), Plaintiff is entitled to amend his Complaint. There is no indication that the amendment was brought in bad faith or for dilatory purposes. Nor could it be considered prejudicial to the remaining defendants, because the proposed amendment does not assert any additional facts or claims against them.

Accordingly, to the extent Plaintiff attempts to substitute LPN Sears for Jane Doe in paragraphs 9, 74-76, 78, 164, and paragraph c of the relief requested, his Motion is **GRANTED**. (DE 48.)

Plaintiff has failed to follow the requirements outlined in the Local Rules to “attach the proposed amended pleading to the motion.” E.D. Mich. LR 15.1. However, Plaintiff is incarcerated and proceeding *pro se*. Because the Court holds *pro se* complaints to “less stringent standards than formal pleadings drafted by lawyers,” it will incorporate the substitution of LPN Sears for Jane Doe in Plaintiff’s long, handwritten Complaint, rather than have him write it out by hand all over again. (DE 1). *Haines v. Kerner*, 404 U.S. 519, 520 (1972). Accordingly, the Court will **ORDER** that LPN Sears be substituted for Jane Doe in paragraphs 9, 74-76, 78, 164 and paragraph c of the relief requested, as if fully stated therein.

Plaintiff is cautioned that any future Motions to Amend Complaint **MUST** contain a copy of the fully Amended Complaint, with all prior versions and requested changes fully incorporated within a single document.

The Clerk of the Court is **DIRECTED** to substitute LPN Sears for Defendant Jane Doe. Also, the U.S. Marshal is **DIRECTED** to serve summons and Complaint (DE 1), and a copy of this Order, upon LPN Sears by mail at 3855 Cooper Street, Jackson, MI 49201, without prepayment of the costs of such service. The Marshal may collect the usual and customary costs from Plaintiff after effecting service.

IT IS SO ORDERED.

Dated: October 17, 2017

s/Anthony P. Patti
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on October 17, 2017, electronically and/or by U.S. Mail.

s/Michael Williams
Case Manager for the
Honorable Anthony P. Patti
(313) 234-5200