

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

**LAWYERS FOR FAIR RECIPROCAL
ADMISSION,**

No. 2:22-cv-01221-MWM

Plaintiff,

OPINION AND ORDER

v.

UNITED STATES et al.,

Defendants.

MOSMAN, J.,

On January 17, 2023, Defendants filed a Motion to Strike the Amended Complaint [ECF 43]. Plaintiff filed its opposition on January 27, 2023 [ECF 46], to which Defendants replied on February 3, 2023 [ECF 48]. Upon reviewing the motion and briefing, I GRANT Defendants' Motion to Strike the Amended Complaint.

LEGAL STANDARD

Fed. R. Civ. P. 15 governs amended and supplemental pleadings. Under Fed. R. Civ. P. 15(a), “[a] party may amend its pleading once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f),

whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(A)–(B). “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2).

Under the District of Arizona Local Rules of Civil Procedure, the motion for leave to amend a pleading must be accompanied by “a copy of the proposed amended pleading as an exhibit to the motion, which must indicate in what respect it differs from the pleading which it amends, by bracketing or striking through the text to be deleted and underlining the text to be added.” LRCiv. 15.1(a). If the motion is granted, the party must file and serve the amended pleading within fourteen days of the order granting leave to amend, unless the Court orders otherwise. *Id.*

DISCUSSION

Plaintiff filed its Amended Complaint on January 3, 2023, without seeking leave from the Court. Further, Plaintiff did not comply with LRCiv. 15.1’s requirement of filing a copy of the amended pleading indicating how it differs from the original pleading. Plaintiff argues that it fell within the time period of amending a pleading as a matter of course because Plaintiff had received an extension of the response deadline to Defendants’ Motion to Dismiss, which was filed on October 31, 2022.

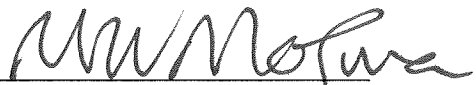
The Court’s Order granting an extension to respond to Defendants’ Motion to Dismiss did not extend the period in which a party can amend a pleading as a matter of course pursuant to Fed. R. Civ. P. 15(a)(1). Plaintiff filed its Amended Complaint more than twenty-one days from the filing of the Motion to Dismiss and therefore was required to obtain the opposing parties’ consent or leave from the Court. Given that Plaintiff failed to comply with Fed. R. Civ. P. 15(a)(2) and LRCiv. 15.1(a), I grant Defendants’ Motion to Strike the Amended Complaint.

CONCLUSION

For the reasons discussed above, Defendants' Motion to Strike the Amended Complaint [ECF 43] is GRANTED. Plaintiff shall move for leave to amend the complaint in accordance with Fed. R. Civ. P. 15(a)(2) and LRCiv. 15.1(a).

IT IS SO ORDERED.

DATED this 6th day of April, 2023.


MICHAEL W. MOSMAN
Senior United States District Judge