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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FRANCIS FARRIS,

Plaintiff,

v.

SOUTHWEST AIRLINES CO.,

Defendant.

No. C 08-4035 PJH

ORDER

Pro se plaintiff Francis Farris filed this action on August 25, 2008, alleging wrongful termination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5. Defendant Southwest Airlines Co. ("Southwest") answered the complaint on December 4, 2008.

On January 8, 2009, Southwest filed a case management conference statement, in which plaintiff's claims were characterized as claims of discrimination "based on her sex and/or race." On February 4, 2009, the court received a document entitled "Plaintiff's Amended Complaint," in which plaintiff states that it was also her intention in her original complaint to allege wrongful termination on the basis of disability, and failure to accommodate, in violation of the Americans With Disabilities Act, 42 U.S.C. § 12101, et seq.

Federal Rule of Civil Procedure 15 requires that a plaintiff obtain either consent of the defendant or leave of court to amend its complaint once the defendant has answered, but "leave shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). Here, because Southwest has filed an answer to the complaint, plaintiff can file an amended

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For the Northern District of California

1 complaint only (a) if Southwest agrees to the filing, or (b) if she files a motion for leave to
2 amend, in accordance with Civil Local Rules 7-1 and 7-2, and the court grants the motion.

3 Leave to amend is ordinarily granted unless the amendment is futile, would cause
4 undue prejudice to the defendants, or is sought by plaintiffs in bad faith or with a dilatory
5 motive. Foman v. Davis, 371 U.S. 178, 182 (1962); DCD Programs, Ltd. v. Leighton, 833
6 F.2d 183, 186 (9th Cir.1987). Amendments seeking to add claims are to be granted more
7 freely than amendments adding parties. Union Pacific R. Co. v. Nevada Power Co., 950
8 F.2d 1429, 1432 (9th Cir. 1991).

9 The court suggests that plaintiff contact counsel for Southwest as soon as possible
10 and attempt to obtain Southwest's agreement to the filing of an amended complaint. If
11 Southwest agrees, counsel for Southwest should file a stipulation to that effect. Once the
12 stipulation is filed, plaintiff may submit an amended complaint for filing.

13 Because an amended complaint takes the place of the previous complaint, it stands
14 on its own. Thus, plaintiff must allege all the claims that she intends to assert in this action
15 in the amended complaint. It is not sufficient, as plaintiff has attempted to do here, to file
16 an original complaint and then file a supplement to that complaint.

17 In the event that Southwest refuses to agree to the filing of an amended complaint,
18 plaintiff must file a motion with the court seeking leave to amend the complaint to add the
19 ADA claims.

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21 **IT IS SO ORDERED.**

22 Dated: February 10, 2009

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PHYLLIS J. HAMILTON
United States District Judge

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