

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Craig B. Shaffer

Civil Action: 11-cv-02333-LTB-CBS
Date: May 1, 2012

FTR - Reporter Deck-Courtroom A402
Courtroom Deputy: Robin Mason

Parties:

LAFAYE ADAMS,

Plaintiff,

Counsel:

Pro Se

v.

FEDEX GROUND PACKAGE SYSTEM,
INC.,

Defendant.

Mark Thomas Clouatre
Thomas Eilif Miller Werge

COURTROOM MINUTES/MINUTE ORDER

HEARING: PRELIMINARY SCHEDULING CONFERENCE

Court in session: 10:53 a.m.

Court calls case. Appearances of counsel. *Ms. LaFaye Adams appears as pro se.*

Discussion between the court and Ms. LaFaye regarding her son being present at this hearing to help her out not as her lawyer but as a legal advisor. The court advises Ms. Adams that her son is unable to act as her legal advisor and that he is unable to speak on her behalf in court because doing so would constitute practicing law without a license. Ms. Adams informs the court that she used the wrong wording when she called him her legal advisor.

Discussion regarding what discovery is needed and how much time will be needed to complete the discovery process.

The court addresses the parties regarding the defendant's MOTION to Dismiss #2 for Failure to State a Claim and Incorporated Memorandum (Docket No. 12, filed on 4/5/2012), plaintiff's RESPONSE to Defendant's #12 Rule 12(b)(1) and (b)(6) MOTION and Incorporated Memorandum to Dismiss for Failure to State a Claim (Docket No. 14, filed on 4/11/2012), and defendant's REPLY to Response to #12 MOTION to Dismiss for Failure to State a Claim and Incorporated Memorandum (Docket No. 17, filed on 4/30/2012).

Discussion between the court and Ms. Adams regarding the claims in her original complaint and

claims in her current amended complaint. Discussion regarding the discrepancies in the claims and allegations within the two complaints (being an employee vs. breach of contract). Ms. Adams cites case law she feels is relevant to her case.

Ms. Adams informs the court that she still would like a chance to attempt to retain counsel. Discussion between the court and Ms. Adams regarding what the court should do with her lawsuit while she is attempting to retain counsel.

Ms. Adams makes an oral motion to withdraw the amended complaint and ask for a continuance to obtain an attorney. The court advises Ms. Adams that it has the discretion to enter a ruling on the defendant's motion to dismiss since it has been fully briefed. The court informs Ms. Adams that the defense counsel is not required to confer with her before moving forward with filing a motion to dismiss.

Further discussion between the court and Ms. Adams regarding her current amended complaint (suing under Title 7—being employed as a contractor). Ms. Adams advises the court that she would like to withdraw the amended complaint but would like to be able to file a motion to amend her complaint (she would like to now show that she was an employee and not an independent contractor).

Further discussion between the court and Ms. Adams regarding giving her a fixed deadline to file a new amended complaint. Ms. Adams is requesting 45 days to allow her to file a new amended complaint as well as provide her with more time to obtain an attorney.

ORDERED: The plaintiff shall have **no later than May 31, 2012 by 5:00 p.m.** to file a new amended complaint. Once the new amended complaint has been filed, the original complaint will be moot. Defense counsel shall have the opportunity to file a response to this new amended complaint. If the plaintiff does not file a new amended complaint, Magistrate Judge Shaffer shall move forward with writing his recommendation regarding the defendant's motion to dismiss. The court will hold in **ABEYANCE** defendant's MOTION to Dismiss #2 for Failure to State a Claim and Incorporated Memorandum (Docket No. 12, filed on 4/5/2012) and defendant's MOTION to Dismiss Amended Complaint (Docket No. 18, filed on 4/30/2012).

Ms. Adams seeks clarification as to how much help can be given to her if the person is not a licensed attorney. Discussion between the court and Ms. Adams regarding whether the court can appoint an attorney for civil cases. Ms. Adams agrees to continue her attempts at obtaining counsel to represent her.

HEARING CONCLUDED.

Court in recess: 12:01 p.m.

Total time in court: 01:08

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