

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02478-WJM-KLM

MICHELLE MOLLOY, and unnamed plaintiffs,

Plaintiff,

v.

CHICO'S FAS, INC.,

Defendant.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Defendant's Motion to Strike Plaintiff's Newly Amended Complaint Attached to Reply** [#27]¹ (the "Motion"). Plaintiff has not filed a response.² In the Motion, Defendant asks the Court to strike the version of Plaintiff's First Amended Complaint and Jury Demand [#26-1] attached to Plaintiff's Reply in support of its Motion for Leave to Amend Pleadings [#23] (the "Motion to Amend").

Plaintiff attached the initial version of her First Amended Complaint and Jury Demand [#23-1] to her Motion to Amend [#23]. Plaintiff filed the second version of her First Amended Complaint and Jury Demand in response to arguments raised by Defendant in its response to the Motion to Amend. "The court does not ordinarily review issues raised for the first time in a reply brief." *Stump v. Gates*, 211 F.3d 527, 533 (10th Cir. 2000) (citation omitted). The reason for this is clear. By waiting until she filed her Reply to add three new paragraphs to her proposed amended complaint, Plaintiff eliminated Defendant's opportunity to respond to the newly added portions of the proposed amended complaint. Such a tactic contravenes the purposes of the briefing procedures included in the Federal Rules of Civil Procedure and the Local Rules of this Court. Accordingly,

IT IS HEREBY **ORDERED** that the Motion [#27] is **GRANTED**.

¹ "[#27]" is an example of the convention the Court uses to identify the docket number assigned to a specific paper by the Court's case management and electronic case filing system (CM/ECF). The Court uses this convention throughout this Minute Order.

² The Court may rule on a pending motion at any time. D.C.COLO.LCivR 7.1(d).

IT IS FURTHER **ORDERED** that the version of Plaintiff's First Amended Complaint and Jury Demand [#26-1] attached to Plaintiff's Reply in support of its Motion for Leave to Amend Pleadings is **STRICKEN**.

If Plaintiff wishes to withdraw her Motion to Amend and file a new motion pursuant to Fed. R. Civ. P. 15 attaching a proposed amended complaint different from the version Plaintiff sought the Court to accept through her Motion to Amend, Plaintiff must file a motion to that effect.

Dated: March 7, 2014