

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

GUANG CHEN,

Plaintiff,

-vs-

Case No. 2:09-cv-752-FtM-99SPC

DESOTO COUNTY, FLORIDA, a political
subdivision of the State of Florida,

Defendant.

ORDER

This matter comes before the Court on Defendant's Motion to Strike Plaintiff's First Amended Complaint (Doc. #44) filed on August 26, 2010. Plaintiff *pro se* filed a First Amended Complaint on August 18, 2010 (Doc. #43), which seeks to add an additional party. The Court notes that Plaintiff did not consult with the Defendant prior to filing his First Amended Complaint in violation of Local Rule 3.01(g). Further, Federal Rule of Civil Procedure 15(a) provides that a party may amend its pleading once as a matter of course within 21 days of service of the complaint or if a responsive pleading is required, within 21 days after service of the responsive pleading, or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. Federal Rule 15(a)(2) provides that in all other cases, a party may amend its pleading with the consent of the opposing party or the Court's leave.

In this case, the Plaintiff filed his original complaint on November 16, 2009 and Defendant filed its responsive pleading on December 17, 2009. Therefore, pursuant to Federal Rule 15(a)(2), Plaintiff is required to obtain Defendant's consent or seek leave of this Court prior to filing an

Amended Complaint, which he has failed to do. Thus, Defendant's Motion is due to be granted and Plaintiff's First Amended Complaint will be stricken.

Accordingly, it is now

ORDERED:

Defendant's Motion to Strike Plaintiff's First Amended Complaint (Doc. #44) is **GRANTED.**

DONE AND ORDERED at Fort Myers, Florida, this 30th day of August, 2010.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record