

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

GP, minor child by and through her
Mother, JP

Plaintiff,

v.

Case No: 2:15-cv-728-FtM-38CM

LEE COUNTY SCHOOL BOARD
and LINDA CAPRAROTTA,

Defendants.

ORDER¹

This matter comes before the Court on Plaintiff's Second Amended Complaint ([Doc. #37](#)) filed on June 14, 2016. Plaintiff commenced this action against Defendants on November 23, 2015. ([Doc. #1.](#)) With the Court's leave, Plaintiff filed a nine-count Amended Complaint on February 22, 2016 ([Doc. #16](#); [Doc. #17.](#)) Only Count II survived Defendants' Motion to Dismiss ([Doc. #26](#)). The Court dismissed Counts III, VII, and VIII without prejudice allowing Plaintiff leave to amend as consistent with the Court's Order. ([Doc. #35.](#))

Plaintiff's Second Amended Complaint ([Doc. #37](#)) was filed on June 14, 2016, in response to the Court's Order to Show Cause (Doc. #36). The Second Amended Complaint adds four new counts and three new parties to the instant litigation. ([Doc.](#)

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

[#37.](#)) On October 12, 2016, Plaintiff filed a Motion for Leave to File the Second Amended Complaint ([Doc. #48](#)). The Court denied Plaintiff's motion without prejudice for failure to comply with the local rules. (Doc. #49.) As of the date of this Order, Plaintiff has not sought leave to amend again or filed a revised second amended complaint that complies with the Court's Order ([Doc. #35](#)).

Rule 15 of the Federal Rules of Civil Procedure states "[a] party may amend its pleading once as a matter of course within . . . 21 days after service of a motion under Rule 12(b)[.]" [Fed. R. Civ. P. 15\(a\)\(1\)\(B\)](#). "In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave." [Fed. R. Civ. P. 15\(a\)\(2\)](#).

In this case, the Court only granted leave to amend "as consistent with [its] Order." ([Doc. #35](#), p. 21.) Instead of complying with the Court's directive, Plaintiff filed an amended complaint adding entirely new counts and parties. Although Plaintiff sought leave to amend after the fact, the request was denied. (Doc. #49.) Therefore, the Court will strike the Second Amended Complaint for failure to comply with Rule 15(a) and the Court's previous Order ([Doc. #35](#)).

Should Plaintiff wish to file a revised second amended complaint that complies with the directives given in the Court's previous Order ([Doc. #35](#)), it may do so by **January 10, 2017**. This will be Plaintiff's final opportunity to amend. If Plaintiff chooses not to file a revised second amended complaint, or fails to follow the Court's directives again, this case will proceed on Count II of the First Amended Complaint. (See [Doc. #35](#).)

Accordingly, it is now

ORDERED:

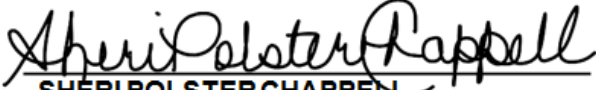
(1) Plaintiff's Second Amended Complaint ([Doc. #37](#)) is **STRICKEN**.

(2) The Clerk of the Court is **DIRECTED** to strike the Second Amended Complaint ([Doc. #37](#)) from the docket.

(3) Defendants Lee County School Board and Linda Caprarotta's Motion to Dismiss the Second Amended Complaint ([Doc. #38](#)) is **DENIED as moot**.

(4) Plaintiff may file a revised second amended complaint on or before **January 10, 2017**. This will be Plaintiff's final opportunity to amend.

DONE and **ORDERED** in Fort Myers, Florida this 3rd day of January, 2017.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record