

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

DAVID CUNNINGHAM,

Plaintiff,

v.

Case No: 5:15-cv-480-Oc-30PRL

SCHOOL BOARD OF LAKE  
COUNTY and SUSAN MOXLEY,

Defendants.

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**ORDER**

THIS CAUSE comes before the Court upon Plaintiff's Motion for Leave to Amend the Complaint to Add Defendant, Susan Moxley, in Her Individual Capacity (Doc. 11) and Defendants' response in opposition (Doc. 12). Plaintiff initiated this action against the School Board of Lake County and Susan Moxley after he was demoted from principal to teacher alleging claims for constitutional violations, race discrimination under Title VII and the Florida Civil rights Act, and breach of contract. (Doc. 1). Defendants moved to dismiss Plaintiff's complaint (Doc. 5), and Plaintiff filed a response in opposition (Doc. 10). Before the Court ruled on Defendants' motion to dismiss, Plaintiff filed the present motion seeking leave to amend his complaint to assert claims against Defendant Susan Moxley in her individual capacity.

Pursuant to Federal Rule of Civil Procedure 15(a), a "court should freely give leave [to amend] when justice so requires." Leave to amend generally is granted unless there is


a significant reason for the amendment's denial. *Pioneer Metals, Inc. v. Univar USA, Inc.*, 168 F. App'x 335, 337 (11th Cir. 2006). Permissible reasons justifying denial are "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party . . ., [and] futility of amendment." *Id.* (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)).

Defendants express concern that if Plaintiff's amendment is permitted, Susan Moxley may need to obtain counsel and that counsel would have had no input in the case management schedule or deadlines. (Doc. 12). The Court does not find this concern sufficiently substantial to warrant denial of Plaintiff's motion. In the event Susan Moxley needs to obtain counsel or the Court's ruling necessitates new case management and scheduling deadlines, the parties are invited to petition the Court to the extend the deadlines and the Court will remain mindful of the latitude granted Plaintiff and the timing of the present ruling.

Accordingly, it is therefore **ORDERED AND ADJUDGED** that:

1. Plaintiff's Motion for Leave to Amend the Complaint to Add Defendant, Susan Moxley, in her Individual Capacity (Doc. 11) is GRANTED.
2. Within seven (7) days of the date of this Order, Plaintiff may file his amended complaint.
3. Defendants' Motion to Dismiss Plaintiff's Complaint (Doc. 5) is DENIED as moot.

**DONE** and **ORDERED** in Tampa, Florida, this 10th day of February, 2016.

  
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**JAMES S. MOODY, JR.**  
**UNITED STATES DISTRICT JUDGE**

Copies furnished to:  
Counsel/Parties of Record

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