

13, Amended Complaint) in the event the Court finds that his allegations are inadequate. See Response (Doc. 53) at 15; Response (Doc. 54) at 8-9; Response (Doc. 56), at 8; Response (Doc. 59) at 9-10. Preliminarily, the Court notes that a request for affirmative relief, such as a request for leave to amend a pleading, is not properly made when simply included in a response to a motion. See FED. R. CIV. P. 7(b); see also Rosenberg v. Gould, 554 F.3d 962, 965 (11th Cir. 2009) (“Where a request for leave to file an amended complaint simply is imbedded within an opposition memorandum, the issue has not been raised properly.”) (quoting Posner v. Essex Ins. Co., 178 F.3d 1209, 1222 (11th Cir. 1999)).

Moreover, even if it were proper to include this request in the Responses, the request is otherwise due to be denied for failure to comply with Local Rule 3.01(g), United States District Court, Middle District of Florida (Local Rule(s)). Local Rule 3.01(g) requires certification that the moving party has conferred with opposing counsel in a good faith effort to resolve the issue raised by the motion and advising the Court whether opposing counsel agrees to the relief requested. See Local Rule 3.01(g). In addition, the request in the Responses also fails to satisfy the requirement that “[a] motion for leave to amend should either set forth the substance of the proposed amendment or attach a copy of the proposed amendment.” Long v. Satz, 181 F.3d 1275, 1279 (11th Cir. 1999); see also McGinley v. Fla. Dep’t of Highway Safety and Motor Vehicles, 438 F. App’x 754, 757 (11th Cir. 2011) (affirming denial of leave to amend where plaintiff did not set forth the substance of the proposed amendment); United States ex. rel. Atkins v. McInteer, 470 F. 3d 1350, 1361-62 (11th Cir. 2006) (same). Thus, the Court will not entertain Plaintiff’s request for relief included in the Responses. Plaintiff is advised that, if he wishes to pursue such relief, he

is required to file an appropriate motion, in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court.

Accordingly, it is

ORDERED:

To the extent that he requests affirmative relief from the Court, Plaintiff's Response to Defendants Jones, Sellers, Rivera, and Lukens' Motion to Dismiss (Doc. 53); Plaintiff's Response to Defendant Sheriff of Lake County, Florida's Partial Motion to Dismiss (Doc. 54); Plaintiff's Response to Defendant Nate Pickens's Motion to Dismiss (Doc. 56); and Plaintiff's Response to Defendant Mascotte Police Department's Motion to Dismiss (Doc. 59) are **DENIED without prejudice**.

DONE AND ORDERED in Jacksonville, Florida, this 19th day of October, 2017.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

Counsel of Record
Pro Se Parties