

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

WILSONIA W. HAYGOOD,

Plaintiff,

v.

Case No. 6:16-cv-2105-Orl-37GJK

ORANGE COUNTY PUBLIC  
SCHOOLS; and FLORIDA  
DEPARTMENT OF EDUCATION  
PRACTICES COMMISSION,

Defendants.

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**ORDER**

On July 19, 2017, *pro se* Plaintiff filed her second amended complaint (“**SAC**”) purporting to sue three Defendants under Title VII of the Civil Rights Act of 1964 (“**Title VII**”) and the Age Discrimination in Employment Act of 1967 (“**ADEA**”). (Doc. 39.) These claims stem from Plaintiff’s termination as a teacher from Bridgewater Middle School. (*See id.* ¶ 16.) Upon Florida Education Association’s (“**FEA**”) motion, the Court dismissed the SAC as it was a shotgun pleading and for failure to properly allege either a Title VII claim or an ADEA claim against FEA. (Doc. 51 (“**Dismissal Order**”).) In so doing, the Court dismissed the claims against FEA with prejudice and terminated it as a party. (*Id.* at 9.)

In light of the pleading deficiencies and insufficient service of process, the Court also dismissed Plaintiff’s claims without prejudice against the remaining defendants—Orange County Public Schools (“**OCPS**”) and Florida Department of Education Practices

Commission (“**Commission**”). (*Id.*) The Court: (1) granted Plaintiff leave to file a third amended complaint as to these remaining defendants; and (2) directed Plaintiff to file proofs of service thirty days after filing her third amended complaint. (*Id.* at 9-10.)

On October 2, 2017, Plaintiff filed: (1) a document titled “Notification to the Court of Matters Concerning a Third Amended Complaint in Response to [the Court’s Dismissal Order]” (Doc. 52 (“**Notice**”)); and (2) proofs of service indicating that she had served the SAC on FEA, OCPS, and the Commission (Doc. 53). In her Notice, Plaintiff appears to contest the dismissal of the SAC. (*See* Doc. 52, pp. 3-5.) As such, the Court construes the Notice as Plaintiff’s intent to stand on the allegations asserted therein and will treat the SAC as the operative pleading as to OCPS and the Commission.

On review, the Court notes that Plaintiff’s allegations against the Commission are deficient. Title VII and the ADEA apply only to “employers.” *See* 42 U.S.C. § 2000e(b); 29 U.S.C. § 630(b). Plaintiff alleges that the Commission “is a quasi-judicial body” that “issues penalties against an educator’s certificate.” (Doc. 39, ¶ 9.) So, because Plaintiff did not allege that the Commission employed her, she has failed to properly plead her claims against the Commission.

On more than one occasion, the Court has provided Plaintiff with specific instructions on how to comply with basic pleading requirements. (*See* Docs. 17, 38, 51.) It is now apparent that Plaintiff cannot make out a Title VII or ADEA claim against the Commission. In light of Plaintiff’s repeated failure to cure the deficient allegations, the Court finds that Plaintiff’s claims against the Commission are due to be dismissed with prejudice. *See Foman v. Davis*, 371 U.S. 178, 182 (1962) (noting that dismissal with prejudice

is appropriate where a plaintiff has repeatedly failed to cure deficiencies by amendment).


As for OCPS, it responded to the Notice by filing a Motion to Dismiss the Third Amended Complaint With Prejudice on October 5, 2017. (Doc. 55 (“**Motion**”).) Despite its label, OCPS construes the Notice as incorporating and restating the SAC’s allegations and directs its arguments to the same. (See Doc. 55, p. 4, 8 (presenting argument “as to why the [SAC] should be dismissed on the merits”).) Consequently, Plaintiff must now respond to the Motion.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Second Amended Complaint (Doc. 39) is **DISMISSED WITH PREJUDICE** as to Defendant Florida Department of Education Practices Commission.
2. The Clerk is **DIRECTED** to **TERMINATE** Florida Department of Education Practices Commission as a party.
3. On or before Monday, **October 23, 2017**, Plaintiff is **DIRECTED** to file a response to Defendant Orange County Public Schools Dispositive Motion to Dismiss Third Amended Complaint with Prejudice (Doc. 55). Failure to timely respond may result in dismissal of this action with prejudice.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on October 16, 2017.



  
ROY B. DALTON JR.  
United States District Judge

Copies to:  
*Pro se* party  
Counsel of Record