

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ANTHONY MILLS, ET AL.,

Plaintiffs,

v.

Case No. 8:12-cv-1319-T-33AEP

SODEXO, INC., ET AL.,

Defendants.

ORDER

This matter is before the Court pursuant to Defendants' Motion for Judgment on the Pleadings (Doc. # 25), filed on January 22, 2013, Plaintiffs' Motion to Amend the Complaint (Doc. # 39), filed on February 28, 2013, and Plaintiffs' Second Motion for Extension of Time to Respond to Motion for Judgment as a Matter of Law (Doc. # 40), also filed on February 28, 2013. Defendants filed a Response in Opposition to Plaintiffs' Extension Motion (Doc. # 41) on March 1, 2013. For the reasons that follow, the Court grants in part Plaintiffs' request to file a Second Amended Complaint; accordingly, Defendants' Motion for Judgment on the Pleadings and Plaintiffs' related Extension Motion are denied as moot.

Discussion

Plaintiffs filed this action on June 12, 2012 (Doc. # 1) and filed an Amended Complaint (Doc. # 11) on November 1,

2012, containing the following counts: (1) declaratory judgment, (2) common law fraud in the inducement, (3) breach of settlement agreement, (4) quantum meruit, and (5) retaliation under the Fair Labor Standards Act and Florida Civil Rights Act.

On January 22, 2013, Defendants filed a Motion for Judgment on the Pleadings. (Doc. # 25). On February 1, 2013, Plaintiffs sought and were granted an extension of time until February 28, 2013, to respond to the Motion for Judgment on the Pleadings. (Doc. ## 27, 28). On February 28, 2013, Plaintiffs filed a timely Motion to Amend the Complaint (Doc. # 39), as well as Second Motion for Extension of Time to Respond to the Motion for Judgment on the Pleadings (Doc. # 40). Plaintiffs request an extension of time to respond to the Motion for Judgment on the Pleadings by seven days from the date that this Court decides Plaintiffs' Motion for Leave to Amend.

The Court has evaluated the Motion to Amend and determines that many of the requested amendments will streamline this case. For instance, Plaintiffs seek to drop Kimberley Harris as a party, seek to clarify certain claims (such as specifying that the quantum meruit claim is predicated upon the April 16, 2010, layoff notice), and seek

to separate the FLSA and FCRA claims that are currently set forth in a single count. These amendments are timely presented and abundantly appropriate, and the Court is inclined to allow them.

However, the Court determines that Plaintiffs' request to amend to include a demand for punitive damages should be denied without prejudice. The issue of whether Plaintiffs may include a demand for punitive damages should be briefed separately and at a later date. Plaintiffs should set forth their request for punitive damages in a separate motion after the Court has ruled upon the dispositive motions.

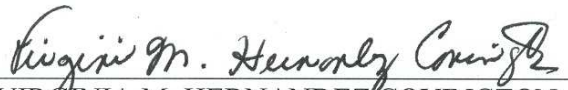
Upon due consideration, the Court determines that best way for this matter to proceed is to allow Plaintiffs to file the Second Amended Complaint by March 8, 2013, excluding Plaintiffs' request for punitive damages. Such an amendment moots Defendants' Motion for Judgment on the Pleadings and Plaintiffs' request for an extension to respond to the Motion for Judgment on the Pleadings. If appropriate to do so, Defendant may reassert the arguments presented in its Motion for Judgment on the Pleadings in response to Plaintiffs' Second Amended Complaint. Furthermore, Plaintiffs may reassert their request for punitive damages via separate motion supported by citations to relevant authorities after the Court resolves dispositive motions.

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

Plaintiffs' request to file a Second Amended Complaint (Doc. # 39) is **GRANTED** in part. Plaintiffs may file an amended complaint on or before March 8, 2013. Plaintiffs' request to amend to include a demand for punitive damages is **DENIED** without prejudice. Defendants' Motion for Judgment on the Pleadings (Doc. # 25) and Plaintiffs' Motion for Extension of Time (Doc. # 40) are **DENIED** as moot.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 4th day of March, 2013.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies: All Counsel of Record