

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-60308-CIV-SEITZ/O'SULLIVAN

FREDERICK BRADLEY NOWELL, SR.,

Plaintiff,

v.

THE REDLAND COMPANY, INC. et al.,

Defendants.

ORDER

THIS MATTER came before the Court on the Defendants Marc Nurik, Robert Buschel and Rothstein Rosenfeld Adler's Motion to Dismiss (DE# 30, 5/1/09), Defendants, Andrew C. Hall, Adam S. Hall, and Hall, Lamb and Hall's Motion to Dismiss (DE# 64, 6/25/09), Defendants, The Redland Company, Inc., Charles P. Munz, Terry L. Munz, William J. Ratcliff, and Ray Sutton's Motion to Dismiss Plaintiff's Complaint (DE# 65, 6/25/09), Defendants Erle Ross Zimmerman and Zimmerman, Joseph Bayne & Wolfe, P.A.'s Motion to Dismiss (DE# 66, 6/29/09), Defendants, Michael A. Rosen, Weintraub, Rosen & King, P.A., Howard Hollander and Hollander & Bartelstone, P.A.'s Motion to Dismiss Plaintiff's Complaint (DE# 67, 6/29/09), Defendants, Christi Sharp's and Conn & Sharp, P.A.'s Motion to Dismiss Plaintiff's Complaint and Memorandum of Law (DE# 70, 6/29/09), Defendants Jerald A. Freshman, Freshman and Freshman, LLC, Lynette Ebeoglu McGuinness and Murai Wald Biondo Moreno & Brochin, P.A.'s Motion to Dismiss the Complaint (DE# 71, 6/29/09) and Motion for Limited Stay in the Proceedings Pending Plaintiff's Filing of Amended Complaint and Resolution of Motions to Dismiss (DE# 103, 8/5/09) filed by the plaintiff. Having reviewed the applicable filings and law, it is

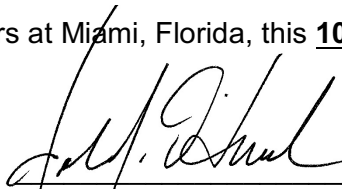
ORDERED AND ADJUDGED that the aforementioned motions to dismiss are **DENIED as moot**. On August 5, 2009, the plaintiff filed a document indicating that he will be filing an

amended complaint on September 18, 2009. See Motion for Limited Stay in the Proceedings Pending Plaintiff's Filing of Amended Complaint and Resolution of Motions to Dismiss (DE# 103, 8/5/09).¹ Rule 15(a) of the Federal Rules of Civil Procedure permits the plaintiff to amend his or her pleadings once before a responsive pleading is filed. "For purposes of this Rule, a motion to dismiss is not a responsive pleading." Williams v. Board of Regents of University System of GA, 477 F.3d 1282, 1291 (11th Cir. 2007). Accordingly, the plaintiff is permitted to file an amended complaint and the defendants' motions to dismiss are moot. It is further,

ORDERED AND ADJUDGED that the Motion for Limited Stay in the Proceedings Pending Plaintiff's Filing of Amended Complaint and Resolution of Motions to Dismiss (DE# 103, 8/5/09) filed by the plaintiff is **DENIED**. It is further

ORDERED AND ADJUDGED that on or before **Friday, September 18, 2009**, the plaintiff shall file his amended complaint. **The failure to comply with this or any other Order may result in sanctions including the dismissal of this action with prejudice.** See Fed. R. Civ. P. 41(b) (authorizing district court to dismiss actions with prejudice if the plaintiff fails to comply with any court order, local rule, or Federal Rule of Civil Procedure).

DONE AND ORDERED in Chambers at Miami, Florida, this **10th** day of August, 2009.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies provided to:

United States District Judge Seitz
All counsel of record

Copies mailed by Chambers to:

Frederick B. Nowell, Sr.
79553-004 Antaeas
Federal Medical Center
P.O. Box 14500
Lexington, Ky 40512-4500

¹ The Court will reinstate the aforementioned motions to dismiss upon notice from the defendants, if the plaintiff does not file his amended complaint on or before September 18, 2009.