

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF ILLINOIS

Kalin King and Veronica King,)	
Plaintiffs)	
)	
v.)	Case No. 11-1290
)	
James Moore,)	
Defendant)	

ORDER

Now before the Court is the Plaintiffs' Motion (#10) to Amend/Correct. In that motion, Plaintiffs ask for leave to amend the pleadings to add new parties and to add additional counts. Plaintiffs also request leave to file a response to the motion to dismiss.

The motion to dismiss was filed on August 5, which made Plaintiffs' response due by August 22. Obviously, the pending motion for leave to respond to that motion is untimely under the Local Rules of this Court. CDIL-LR 7.1(A)(3).

The motion for leave to amend is based on information Plaintiffs' counsel has apparently gleaned in another lawsuit. Nothing in the motion states when this information was learned by Plaintiffs' counsel or why it was not learned in a good faith investigation into the facts prior to filing this litigation. Moreover, Plaintiffs have not attached a proposed amended complaint, which would be the better practice.

Nonetheless, in the exercise of my discretion, the motion is GRANTED IN PART AND DENIED IN PART, as follows:

1. Plaintiffs' motion for leave to file an amended complaint is GRANTED. Plaintiffs shall file their amended complaint on or before Nov. 7, 2011. Plaintiffs shall either have summonses issued or file a notice of intent to proceed pursuant to Fed.R.Civ.P. 4(d) on the date the complaint is filed. If summonses are used, new parties shall be *promptly* served pursuant to Fed.R.Civ.P. 4. If Notices of Lawsuit are used, they shall be *promptly* sent.

2. Defendant's motion to dismiss (#3) is DENIED AS MOOT. See Local Rule 7.1(E). If appropriate, Defendant may revive it within 14 days after the amended complaint is filed.
3. Plaintiffs' request to file a response to the pending motion to dismiss is DENIED.
4. If Defendant does not revive the previously-filed and now-moot motion to dismiss, a pleading responsive to the amended complaint shall be filed within 14 days after the amended complaint has been filed.
5. If Defendant files a pleading or motion requiring a response, Plaintiffs shall timely file that response in compliance with the Federal and Local Rules.

This case was previously stayed until this date, in order to allow Plaintiffs' counsel to obtain co-counsel more knowledgeable about federal procedure. No co-counsel has entered an appearance as of this date. The stay is therefore VACATED, and this case shall proceed.

This is not the first time that Plaintiffs' procedural shortcomings have complicated or delayed the proceedings in this case. Plaintiffs' counsel is cautioned that he must familiarize himself with the requirements of the Federal Rules of Civil Procedure and the Local Rules of the Central District of Illinois. Future deficiencies may not be treated leniently.

ENTERED ON October 31, 2011

s/ John A. Gorman

JOHN A. GORMAN
UNITED STATES MAGISTRATE JUDGE