

nature and, without opposition, we find no reason to deny Plaintiffs request to file the amended pleading. Therefore, Plaintiffs' Motion For Leave to File Amended Complaint (Doc. #48) is GRANTED.

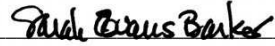
As indicated, Defendants' Motion to Dismiss alleged a lack of case and controversy based on an alleged failure of Plaintiffs' Complaint to set forth particularized facts that demonstrate that the parties had taken adverse positions with respect to their particular obligations or rights prior to the suit being filed. Admittedly, many of the details regarding the meetings, discussions and correspondence between the parties was missing from Plaintiffs' initial pleading. However, the First Amended Complaint, which now replaces and supercedes that initial pleading effort, provides much greater detail in that respect. We take Defendants' lack of opposition to the amended pleading to be at least a tacit recognition that much, if not all, of what they complained of as missing from the initial complaint has now been supplied. Accordingly, while we will not deny Defendants an opportunity to reinvigorate their jurisdictional challenge by filing a motion to dismiss addressing the amended complaint for declaratory relief, we will deny the pending motion, as well as the subsequent request to allow supplementation, based upon what appears to be a facially sufficient request for declaratory relief in the First Amended Complaint.

Conclusion

Plaintiffs' Motion For Leave to File Amended Complaint (Doc. #48) is GRANTED. Defendants' Motion to Dismiss (Doc. #13) and Defendants' Motion For Leave to File Supplemental Submission (Doc. #23) are DENIED.

IT IS SO ORDERED.

Date: 03/22/2011



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

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