

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

PENNY BENTON,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.: 1:10-cv-918-LJM-DML
)	
HAMILTON EAST PUBLIC LIBRARY,)	
)	
Defendant.)	

PLAINTIFF’S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

Comes now the Plaintiff, Penny Benton (“Plaintiff”), by counsel, and respectfully requests the Court to grant her leave to file a second amended complaint. In support hereof, Plaintiff states as follows:

1. Rule 15 of the Federal Rules of Civil Procedure allows the Court to give leave to amend freely when justice so requires. Such leave to amend should be granted unless it is being sought for “undue delay, bad faith or dilatory motive on the part of the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of the allowance of amendment, or futility of amendment.” *Villa v. City of Chicago*, 924 F.2d 629, 632 (7th Cir. 1991)[citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)].

2. Plaintiff intends to file her amended complaint to assert a claim for racial discrimination pursuant to 49 U.S.C. § 1981.

3. The filing of a second amended complaint in this matter on behalf of Plaintiff will further the goal of judicial economy in that if Plaintiff is denied leave to amend, then Plaintiff will be required to file a separate action which in all likelihood will be consolidated with the current action.

4. This motion is not made for the purpose of delay and discovery has only recently began in this case. Thus, Defendant will not be prejudiced by the Court granting Plaintiff leave to file her second amended complaint in this matter.

5. Plaintiff's counsel has conferred in due diligence with Defendant's counsel who objects to this motion.

WHEREFORE, Plaintiff respectfully requests the Court to grant her leave to file her second amended complaint and demand for jury trial in this matter and for all other relief the Court deems just and proper in the premises.

Respectfully submitted,

RAMEY & HAILEY

/s/ Joel S. Paul

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2011, a copy of the foregoing was filed electronically with the Court's electronic filing system which sent notice of such filing to the following counsel:

Jennifer L. Williams
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/s/ Joel S. Paul

Joel S. Paul
RAMEY & HAILEY
Attorneys for Plaintiff