

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RICHARD KELLY,)
)
 Plaintiff,)
)
 vs.) No. 1:15-cv-01529-TWP-TAB
)
 PAUL TALBIT, M.D.,)
 HOUMAN KIANI, M.D.,)
)
 Defendants.)

E N T R Y

The plaintiff’s supplemental complaint [dkt 13] is **rejected** as improperly filed. First, the plaintiff seeks to add Bryan Buller a defendant through the supplement. The proper way to do so is by filing an amended complaint. This Court’s Local Rule 15-1 requires that an amended complaint completely replace the original complaint. The **clerk shall terminate** Bryan Buller as a defendant.

In addition, the supplement merely states that the claims in the action include the direct involvement of Buller. This is insufficient to state a claim against Buller. In order to survive dismissal for failure to state a claim, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Twombly*, 550 U.S. at 556). “A pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of

a cause of action will not do.’ Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.*

For the foregoing reasons, the plaintiff’s motion for an order directing the clerk to issue process against Bryan Buller [dkt 12] is **denied**.

IT IS SO ORDERED.

Date: 11/16/2015



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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