

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CLARA R. FULLER,)	
)	
Plaintiff,)	
)	
v.)	Case No. 16-2415-DDC
)	
STATE OF KANSAS, DEPARTMENT OF)	
CHILDREN AND FAMILIES,)	
)	
Defendant.)	

ORDER

Currently before the court is pro se plaintiff Clara R. Fuller's motion for leave to file an amended complaint (ECF No. 29). Under the time requirements set forth in D. Kan. Rule 6.1(d), defendant's response to the motion was due on February 23, 2017. No timely opposition has been filed.

D. Kan. Rule 7.4 provides, "If a responsive brief or memorandum is not filed within the Rule 6.1(d) time requirements, the court will consider and decide the motion as an uncontested motion. Ordinarily the court will grant the motion without further notice."

The court considers the motion as unopposed and grants it without further notice, in all but one regard. Plaintiff seeks to add Carol Y. Thomas as an additional named plaintiff. However, plaintiff's pro se status bars her from doing so. Plaintiff purports to argue that Ms. Thomas wishes to be a plaintiff in this case, but plaintiff, as a pro se

litigant, cannot represent Ms. Thomas in this matter.¹

Plaintiff's motion to amend is therefore granted in part and denied in part. Plaintiff is instructed to file her amended complaint by March 10, 2017. The amended complaint must be modified such that "Carol Y. Thomas" is omitted from the case caption, and the pleading is titled "Amended Complaint" rather than "Plaintiff's Motion to Amend and for Leave to File."

In light of the foregoing, defendant's motion to dismiss (ECF No. 25) is denied as moot. Defendant shall file any motion to dismiss as to the amended complaint within five business days of the filing of the amended complaint.

Plaintiff is hereby informed that, within 14 days after she is served with a copy of this order, she may, pursuant to Fed. R. Civ. P. 72 and D. Kan. Rule 72.1.4(a), file written objections to this order by filing a motion requesting that the presiding U.S. district judge review this order. A party must file any objections within the 14-day period if the party wants to have appellate review of this order.

Copies of this order shall be sent by regular and certified mail to the pro se plaintiff.

IT IS SO ORDERED.

Dated March 3, 2017, at Kansas City, Kansas.

s/ James P. O'Hara
James P. O'Hara
U. S. Magistrate Judge

¹ See Zhu v. Countrywide Realty Co., Inc., 160 F.Supp.2d 1210, 1225 (D. Kan. 2001).