

**UNITED STATES DISTRICT COURT**  
**MIDDLE DISTRICT OF LOUISIANA**

**MARVIN FULFORD, ET AL.**

**CIVIL ACTION**

**VERSUS**

**NO. 16-16-BAJ-EWD**

**CLIMBTEK, INC., ET AL.**

**ORDER**

Before the Court is a Motion for Leave to File Third Amending Complaint,<sup>1</sup> filed by plaintiffs Marvin Fulford and Rena Fulford (collectively, “Plaintiffs”). The proposed Third Amending Complaint Complaint [sic]<sup>2</sup> is not, however, a comprehensive pleading and instead makes reference to amendments and additions to Plaintiff’s Original Complaint,<sup>3</sup> Amended Complaint,<sup>4</sup> and Second Amending Complaint.<sup>5</sup>

Accordingly,

**IT IS HEREBY ORDERED** that within seven (7) days of this Order Plaintiffs shall file a Motion to Substitute the proposed Third Amending Complaint Complaint [sic]<sup>6</sup> with a proposed pleading that is a comprehensive complaint which includes all Plaintiffs’ numbered allegations, as

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<sup>1</sup> R. Doc. 78.

<sup>2</sup> R. Doc. 78-1.

<sup>3</sup> R. Doc. 1.

<sup>4</sup> R. Doc. 3.

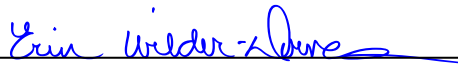
<sup>5</sup> R. Doc. 11. The Court notes that on November 2, 2016, this Court issued a Notice and Order requiring Plaintiffs to file a motion to substitute the Second Amending Complaint with a proposed pleading that is a comprehensive complaint that properly sets forth the citizenship of all parties, which would become the operative complaint in this matter. (R. Doc. 29). In response to the Court’s November 2, 2016 Notice and Order, Plaintiffs filed a Motion to Substitute Second Amending Complaint (R. Doc. 32), which was denied without prejudice because the proposed pleading failed to adequately allege the citizenship of the parties. (R. Doc. 34). Plaintiffs, however, were given seven days from the date of the Order to re-file a motion to substitute with a comprehensive, proposed pleading that adequately alleges the citizenship of all parties. (R. Doc. 34 at 4). A review of the record in this case shows that Plaintiffs never filed a subsequent motion to substitute the Second Amending Complaint with a comprehensive proposed pleading that adequately alleges the citizenship of the parties.

<sup>6</sup> R. Doc. 78-1.

revised, supplemented, and/or amended, and adequately alleges the citizenship of all parties,<sup>7</sup> which will become the operative complaint in this matter without reference to any other document in the record.

**IT IS FURTHER ORDERED** that any party opposing the Motion for Leave to File Third Amending Complaint shall file an opposition memorandum within 21 days of the original filing of the Motion for Leave.

Signed in Baton Rouge, Louisiana, on May 9, 2017.



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**ERIN WILDER-DOOMES**  
**UNITED STATES MAGISTRATE JUDGE**

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<sup>7</sup> See, R. Doc. 34.