

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

UTILITY SYSTEMS  
SERVICES, INC.

CIVIL ACTION

VERSUS

NO. 16-505-SDD-EWD

CAREGUARD WARRANTY  
SERVICES, INC., AFG TECHNOLOGIES,  
LLC, AND R. WRIGHT BREWER III

**RULING ON MOTION TO SUBSTITUTE SUPPLEMENTAL AND AMENDING  
PETITION ON OPEN ACCOUNT, FOR DAMAGES AND INJUNCTIVE RELIEF**

Before the court is a Motion to Substitute Supplemental and Amending Petition on Open Account, for Damages and Injunctive Relief (the “Motion to Substitute”)<sup>1</sup> filed by Plaintiff, Utility Systems Services, Inc., d/b/a an Utilistar Process Automation (“Plaintiff”).

On September 2, 2016, Plaintiff filed a Motion for Leave to File Supplemental and Amending Petition on Open Account, for Damages and Injunctive Relief (the “Motion for Leave”), seeking to file a Supplemental and Amending Petition.<sup>2</sup> On September 22, 2016, this court ordered Plaintiff to file a Motion to Substitute the proposed Supplemental and Amending Petition with a comprehensive proposed pleading which would (if the Motion for Leave was granted) become Plaintiff’s operative Petition.<sup>3</sup>

On September 29, 2016, Plaintiff filed the Motion to Substitute.<sup>4</sup> Attached to Plaintiff’s Motion to Substitute is a proposed First Supplemental and Amending Petition on Open Account, for Damages and Injunctive Relief.<sup>5</sup> The proposed pleading “incorporates by reference as if fully stated herein all prior allegations and claims made in [Plaintiff’s] Original Petition and

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<sup>1</sup> R. Doc. 22.

<sup>2</sup> R. Doc. 8.

<sup>3</sup> R. Doc. 13.

<sup>4</sup> R. Doc. 22.

<sup>5</sup> R. Doc. 22-1.

supplements and amends [Plaintiff's] Original Petition...."<sup>6</sup> As such, the proposed pleading is not comprehensive and is not in compliance with this court's September 22, 2016 Order.

Accordingly, Plaintiff's Motion to Substitute Supplemental and Amending Petition on Open Account, for Damages and Injunctive Relief<sup>7</sup> is DENIED without prejudice to Plaintiff's right to file a Motion to Substitute which attaches a comprehensive proposed pleading (i.e., a proposed pleading that, standing alone, constitutes Plaintiff's operative Petition without reference to or incorporation of any other previously filed pleading). The Motion for Leave will be considered upon the filing of a Motion to Substitute that complies with this court's September 22, 2016 Order.

Signed in Baton Rouge, Louisiana, on September 30, 2016.

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

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<sup>6</sup> R. Doc. 22-1, ¶ 1.

<sup>7</sup> R. Doc. 22.