

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JOSHUA DAVIS

CIVIL ACTION

VERSUS

18-614-SDD-RLB

LOUISIANA STATE UNIVERSITY
AND A&M COLLEGE, ET AL.

RULING

Local Rule 7(f) of the Middle District of Louisiana requires that memoranda in opposition to a motion be filed within twenty-one (21) days after service of the motion.

In the present case, a *Second Motion to Dismiss for Failure to State a Claim*¹ was electronically filed by Defendants, F. King Alexander, individually and in his official capacity as LSU President, Mari Fuentes-Martin, individually and in her official capacity as LSU Dean of Students, and Katie McGee Barras, individually and in her official capacity (collectively "Defendants"), on February 19, 2019. A review of the record shows that far more than twenty-one (21) days have elapsed since the filing of this motion, and no memorandum in opposition has been submitted to date. Further, the record reveals that Plaintiff, Joshua Davis ("Plaintiff") has not sought an extension of time to oppose Defendants' motion.

Additionally, the history of this case demonstrates that Plaintiff has been previously advised by the Court that, although he is *pro se*, he must comply with the Federal Rules

¹ Rec. Doc. 18.

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of Civil Procedure and the Local Rules of the Middle District in prosecuting his case.² The Defendants previously moved to dismiss Plaintiff's *Complaint*, and the Court allowed Plaintiff additional time to submit a proper *Opposition* to Defendants' first motion. Plaintiff complied, and the Court granted the *Motion to Dismiss* as most of Plaintiff's claims were prescribed, but the Court granted the Plaintiff leave to file an amended complaint to raise any timely claims he may have.³ Plaintiff filed an *Amended Complaint*,⁴ which prompted the second motion to dismiss currently before the Court. Plaintiff has failed to oppose this motion.

Therefore, this *Motion* is deemed to be unopposed, and further, after reviewing the record, the Court finds that the *Motion* has merit as a matter of law. Accordingly,

IT IS HEREBY ORDERED that the *Second Motion to Dismiss for Failure to State a Claim*⁵ is GRANTED, and Defendants Alexander, Fuentes-Martin, and Barras are dismissed from this action WITH PREJUDICE.

Any response to this *Ruling* explaining the failure to comply with the deadline, based on the appropriate Federal Rule of Civil Procedure, shall be filed within fourteen (14) days and must be accompanied by an opposition memorandum to the original *Motion*.

On review of the pleadings filed along with the opposition, the Court, at its discretion, may assess costs, including attorney's fees, against the moving party, if the

² Rec. Doc. No. 11.

³ Rec. Doc. No. 16.

⁴ Rec. Doc. No. 17.

⁵ Rec. Doc. 18.

Court deems that such a motion was unnecessary had a timely opposition memorandum been filed.⁶ A statement of costs conforming to L.R. 54(c) shall be submitted by all parties desiring to be awarded costs and attorney's fees no later than seven (7) days prior to the hearing on the newly filed motion.

Judgment shall be entered accordingly.

IT IS SO ORDERED.

Baton Rouge, Louisiana, this 25th day of April, 2019.



**SHELLY D. DICK
CHIEF DISTRICT JUDGE
MIDDLE DISTRICT OF LOUISIANA**

⁶ See Fed. R. Civ. P. 16, 83.
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