

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

**CARL C. CHESHIRE**

**CIVIL ACTION NO. 3:15-CV0933**

**VERSUS**

**JUDGE ROBERT G. JAMES**

**AIR METHODS CORP**

**MAGISTRATE JUDGE HAYES**

**ORDER**<sup>1</sup>

On April 3, 2015, Defendant Air Methods Corporation filed a motion to dismiss for lack of subject-matter jurisdiction and for failure to state a claim upon which relief can be granted. [doc. # 5]. Defendant premised the former defense on Plaintiff's allegation that he "was constructively terminated in violation of the collective bargaining agreement . . . ." *Id.* at 1. Defendant premised the latter defense on Plaintiff's alleged failure to set forth an actual violation of state law and failure to allege that he was terminated for engaging in a protected activity. [doc. # 5-3, p. 16-19].

Plaintiff did not respond to Defendant's motion within the applicable deadline. Plaintiff did, however, file an amended complaint on May 1, 2015.<sup>2</sup> [doc. # 14]. The amended complaint does not reference a collective bargaining agreement. *Id.* In addition, Plaintiff now alleges that Defendant violated state law and terminated him for engaging in a protected activity. *Id.* at 2.

Accordingly, **IT IS ORDERED** that, within **seven (7) days** from the date of this Order, Defendant shall either withdraw its motion or file a superseding motion restating its arguments in


---

<sup>1</sup> As this matter is not excepted within 28 U.S.C. § 636(b)(1)(A), nor dispositive of any claim on the merits within the meaning of Rule 72 of the Federal Rules of Civil Procedure, this order is issued under the authority thereof, and in accordance with the standing order of this Court. Any appeal must be made to the district judge in accordance with Rule 72(a) and L.R. 74.1(W).

<sup>2</sup> Plaintiff enrolled counsel on April 23, 2015. [doc. # 11].

light of Plaintiff's amended complaint.

In Chambers, Monroe, Louisiana, this 11th day of May, 2015.



KAREN L. HAYES  
UNITED STATES MAGISTRATE JUDGE