

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 13-10613-RWZ

JEANNE SWEENEY MOONEY

v.

THE CITY OF NEWTON, *et al.*

ORDER

September 4, 2013

ZOBEL, D.J.

Plaintiff moved to amend her complaint by claiming against Setti D. Warren not only in his official capacity as the Mayor of the City of Newton, but also in his individual capacity. The amended complaint also adds one count for abuse of process against three of the defendants and dismisses one or more defendants from some of the original counts (Docket #39). The Newton defendants, namely, the City, Warren and Edward Aucoin, a lieutenant in the Newton Police Department, object to the addition of claims against Warren in his individual capacity and for abuse of process count against Warren and Aucoin, as well as the elaboration of the facts from the original complaint. These defendants explicitly do not object to the amended complaint insofar as it dismisses Counts IV, V, VI, VII, and X against the City and Count XI against Aucoin. They request denial of the motion to amend insofar as it adds claims against Warren in his individual capacity and against Warren and Aucoin for abuse of process.

Defendant Cummings objects to the addition of the claim for abuse of process.

The court's premature ruling (Docket #46) allowed the motion to amend "to the extent the Newton defendants do not oppose the motion." The endorsement did not explicitly deny the motion to amend nor did it address the new claim against Cummings.

Accordingly, and for the sake of clarity, it is ORDERED:

1. That the motion to amend is allowed to the extent the amended complaint deletes Counts IV, V, VI, VII and X against the City and Count XI against Aucoin.
2. That the motion to amend is denied with respect to the proposed claims against Warren in his individual capacity and the new claim for abuse of process against Warren, Aucoin and Cummings.
3. Plaintiff shall submit a revised Amended Complaint that reflects this order.

September 4, 2013

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE