

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 13-10613-RWZ

JEANNE SWEENEY MOONEY

v.

THE CITY OF NEWTON, *et al.*

ORDER

October 21, 2013

ZOBEL, D.J.

After defendants had answered plaintiff's original complaint, plaintiff moved to amend it in several respects. Defendants objected to parts of the amended complaint, and the court 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.

(Docket # 47).

Plaintiff filed an Amended Complaint (Docket # 48) and the City of Newton, Setti D. Warren and Edward Aucoin (the "Newton defendants"), now move to strike on the

ground that the new document does not comply with the court's order. They focus on the "elaborated facts" which are indeed lengthy and far more detailed than the "short and plain statement of the claim showing that the pleader is entitled to relief" required by Fed. R. Civ P. 8. Nonetheless, the court's order did not address the factual allegations and I will not now strike them.

With respect to the claims against Warren, the amended complaint is silent as to whether he is sued in his official or individual capacity, but, given the earlier order, they will be treated as claims against him only in his official capacity.

The motion to strike (Docket # 49) is denied. The parties are encouraged to proceed expeditiously and cooperatively with discovery which is scheduled to be completed by January 28, 2014.

October 22, 2013

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE