

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BRENDA MURPHY,

Plaintiff,

v.

CHARLES D. BAKER, Governor of
Massachusetts, MARYLOU SUDDERS,
Secretary of MA Health and Human Services,
LINDA S. SPEARS, Commissioner of MA
Department of Children and Families,

Defendants.

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Civil Action No. 15-30187-MGM

MEMORANDUM AND ORDER RE: REPORT AND
RECOMMENDATION ON DEFENDANTS'
MOTION TO DISMISS
(Dkt. Nos. 11, 22)

September 20, 2016

MASTROIANNI, U.S.D.J.

Magistrate Judge Katherine A. Robertson has issued a Report and Recommendation concluding that Plaintiff's complaint does not comply with Rules 8(a)(2) (requiring "a short and plain statement of the claim showing that the pleader is entitled to relief") and 10(b) (requiring complaint to set forth claims "in numbered paragraphs, each limited as far as practicable to a single set of circumstances") of the Federal Rules of Civil Procedure. Judge Robertson also noted that Plaintiff's complaint failed to identify the specific defendant each claim is asserted against, improperly seeks monetary relief from defendants named in their official capacities, appears to request reversal of state-court judgments (which this court lacks jurisdiction to do), and fails to allege adequate facts in support of its claims and the requested relief. As a result, Judge Robertson explained, Defendants are effectively precluded from mounting an adequate defense. *See Diaz-Rivera*

v. Rivera-Rodriguez, 377 F.3d 119, 123-24 (1st Cir. 2004) (“At a bare minimum, even in this age of notice pleading, a defendant must be afforded both adequate notice of any claims asserted against him and a meaningful opportunity to mount a defense.” (internal quotation marks omitted)). Nevertheless, in light of Plaintiff’s *pro se* status, Judge Robertson recommended that this court deny Defendants’ motion to dismiss without prejudice but order Plaintiff to file an amended complaint curing the deficiencies identified in the Report and Recommendation. The Report and Recommendation notified Plaintiff that she had fourteen days to file an objection. No objection has been filed.

Based upon the comprehensive and well-reasoned analysis presented in the Report and Recommendation, and noting there are no objections, the court, upon *de novo* review, hereby ADOPTS the Report and Recommendation in its entirety. (Dkt. No. 22.) As a result, Defendants’ motion to dismiss is DENIED without prejudice. Furthermore, Plaintiff is hereby ORDERED to file an amended complaint within 45 days of this order which:

- (1) Sets forth factual allegations and legal claims or counts in separately numbered, simple, concise, and direct paragraphs;
- (2) Contains short and plain statements of the legal claims showing that Plaintiff is entitled to relief; and
- (3) Contains a demand for judgment specifying the relief that Plaintiff seeks from each named defendant.

If Plaintiff fails to comply with this order and no amended complaint is filed, this action is subject to dismissal.

It is So Ordered.

/s/ Mark G. Mastroianni
MARK G. MASTROIANNI
United States District Judge