

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEBORAH HOFFMAN,

Plaintiff,

v.

CITY OF ECORSE,

Defendant.

Case No. 09-10682

Honorable Julian Abele Cook, Jr.

ORDER

This case involves a dispute between the Plaintiff, Deborah Hoffman, and the Defendant, City of Ecorse (“City”), over the appropriateness and legality of certain allegedly disciplinary measures that were imposed her as a municipal employee. In essence, Hoffman complains that (1) she was personally searched without justification, (2) her office was illegally searched and (3) the City caused her to be falsely imprisoned as a form of retaliation for reporting alleged misconduct by municipal government employees.¹

This lawsuit was originally filed on January 29, 2009 in the Wayne County Circuit Court of Michigan. However, on February 23rd, the City caused the action to be removed to this Court

¹Hoffman also claims to be entitled to relief under the state based “Whistleblower Act” (Mich. Comp. Laws. § 691.1407), in addition to her allegations for false arrest, assault and battery, intentional infliction of emotional distress, and violations of 42 U.S.C. §§1983, 1985, 1988.

on the basis of its federal jurisdiction. *See* 28 U.S.C. § 1331.² On April 14th, the City filed a motion for partial dismissal, citing to Fed. R. Civ. P. 12(b)(6),³ to which Hoffman expressed her opposition on May 5th.

In light of a recent decision by the Supreme Court, this Court will decline to address the merits, if any, of the City’s motion at this time. Rather, the City is directed to submit an amended brief within a period of twenty-one days from the entry of this order that will explore to what extent, if any, the motion to dismiss standard under Rule 12(b)(6) has been modified by the ruling in *Ashcroft v. Iqbal*, 556 U.S. ____ (2009). Thereafter, Hoffman is authorized to address the same issue, as noted above, and file a response within a period of ten days after her receipt of the City’s amended brief.

IT IS SO ORDERED.

Dated: July 1, 2009
Detroit, Michigan

S/Julian Abele Cook, Jr.
JULIAN ABELE COOK, JR.
United States District Court Judge

²28 U.S.C § 1331 states: “The district courts shall have original jurisdiction of all civil actions arising under this Constitution, laws, or treaties of the United States.

³Fed. R. Civ. P. 12(b)(6) states in pertinent part: “Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion: . . . (6) failure to state a claim upon which relief can be granted. . .

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on July 1, 2009.

s/ Kay Doaks
Case Manager