

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Jennifer Dibbern,

Plaintiff,

v.

Case No. 12-15632

The University of Michigan, *et al.*,

Honorable Sean F. Cox

Defendants.

ORDER

Plaintiff Jennifer Dibbern (“Plaintiff”) filed this action against Defendants on December 21, 2012. Plaintiff filed an Amended Complaint, asserting multiple counts, on January 25, 2013.

On March 4, 2013, Defendants filed a Partial Motion to Dismiss. (Docket Entry No. 12). Defendant’s motion seeks dismissal of only certain counts of Plaintiff’s Amended Complaint

In that motion, Defendants also assert that “[t]he parties have agreed to dismiss Counts III and V as to the University of Michigan and the Board of Regents of the University of Michigan with prejudice because they are barred by the 11th Amendment. The parties have further agreed to dismiss Counts III and V as to the individual Defendants in their official capacities except to the extent that prospective, non-monetary relief is granted pursuant to the doctrine set forth in *Ex Parte Young*, 209 U.S. 123, 28 S.Ct. 441 (1908).” (Docket Entry No. 12 at 3). To date, however, the parties have not submitted a stipulation and order regarding the above alleged agreements between the parties.

On April 19, 2013, Plaintiff filed a brief opposing Defendants' Partial Motion to Dismiss. Nevertheless, that response brief also states that "[s]hould the court deem it necessary, Plaintiff will move for leave to amend" and attaches a proposed Second Amended Complaint. (Pl.'s Br. at 13; *see also* Docket Entry No. 17-10, Plaintiff's proposed Second Amended Complaint). The proposed Second Amended Complaint continues to assert Counts III and V against "All Defendants." (*See* Docket Entry No. 17-10 at 38 and 41).

Plaintiff is not entitled to an advisory opinion from this Court informing her of any deficiencies in her Amended Complaint and then an opportunity to cure those deficiencies. *Begala v. PNC Bank*, 214 F.3d 776, 784 (6th Cir. 2000); *Louisiana Sch. Emp. Ret. Sys. v. Ernst & Young, LLP*, 622 F.3d 471, 486 (6th Cir. 2010).

The Court hereby **ORDERS** that if Plaintiff wishes to file a Second Amended Complaint, she shall file a formal motion seeking leave to do so no later than **May 31, 2013**. If Plaintiff does not file a motion seeking leave to file a Second Amended Complaint by that date, the Court shall proceed to hear and determine Defendants' Partial Motion to Dismiss, which has been fully briefed by the parties.

IT IS FURTHER ORDERED that if the parties agree that any counts and/or claims against certain Defendants should be dismissed or limited they shall submit an appropriate stipulation and order as to those claims.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: May 17, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on

May 17, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy
Case Manager