

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ENTERPRISE FINANCIAL GROUP, INC.,)	
)	
Plaintiff,)	
v.)	Case No 4:16CV1619 HEA
)	
RICHARD PODHORN, et al.)	
)	
Defendants.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff’s Emergency Motion for Leave to File Plaintiff’s Second Amended Complaint and Plaintiff’s Emergency Motion to Reconsider the Court’s Order Granting Defendant CapDev, LLC’s Emergency Motion to Cancel Plaintiff’s Notice of *Lis Pendens*, [Doc. No. 35]. For the reasons set forth below, the Motion is denied in part, and taken under submission in part.

Plaintiff seeks to amend its complaint and have the court reconsider its Opinion, Memorandum and Order of December 20, 2017, in which the Court ordered Plaintiff to cancel the *lis pendens* that was filed in the Recorder of Deeds of St. Charles County, Missouri. For its initial reason to reconsider, Plaintiff argues that if it is granted leave to amend its Amended Complaint, the Court’s rationale for requiring the cancellation will be cured. At this point, this reason is premature.

Plaintiff also urges reconsideration because a *lis pendens* cannot be “released” absent a final judgment under Missouri law. The Court, however, did not order the “release,” as it agrees with Plaintiff’s discussion regarding final judgments. The Court, however, issued its Order to “cancel” the *lis pendens* because the Court is of the opinion that the *lis pendens* was improperly filed in this matter. As such, the Court ordered Plaintiff to, in effect, withdraw/cancel/remove the filing in the Recorder’s Office. It is not a release, and therefore requires no final judgment at this point.

Accordingly,

IT IS HEREBY ORDERED that Emergency Motion for Leave to File Plaintiff’s Second Amended Complaint and Plaintiff’s Motion to Reconsider the Court’s Order Granting Defendant CAPDEV, LLC’s Emergency Motion to Cancel Plaintiff’s Notice of *Lis Pendens*, [Doc. No. 35], is denied in part. The Motion to Reconsider portion of the Motion is denied.

IT IS FURTHER ORDERED that Plaintiff’s Motion to Amend, is taken under submission.

Dated this 21st day of December, 2017.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE