

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

**DEWAYNE C. BARNES,**

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**Plaintiff,**

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**vs.**

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**Case No. 4:17CV1629JCH**

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**THE ST. REGIS CORP.,**

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**Defendant.**

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**MEMORANDUM AND ORDER**

Before the Court is Plaintiff’s Motion for Leave to File Amended Complaint, attached to which is a proposed amended complaint. (ECF 24; ECF 24-1).

Plaintiff’s Complaint, filed on June 7, 2017, names only The St. Regis Corp. as a Defendant. (ECF 1). In the proposed amended complaint, Plaintiff adds Sentry Management, Inc., (Sentry) as a Defendant. (ECF 24-1). “In order to initiate a claim under Title VII a party must timely file a charge of discrimination with the [Equal Employment Opportunity Commission (EEOC)] and receive a right-to-sue letter.” *Stuart v. Gen. Motors Corp.*, 217 F.3d 621, 630 (8th Cir. 2000). Plaintiff has filed a copy of the right-to-sue letter issued by the EEOC regarding Sentry. (ECF 27). The right-to-sue letter regarding Sentry was issued

on June 20, 2017. As stated in the right-to-sue letter, Plaintiff had 90 days after the letter was issued to file a civil action against Sentry. *See* 42 U.S.C.A. § 2000e-5(f)(1). Plaintiff, however, filed his Motion for Leave to File Amended Complaint on November 9, 2017, well past the 90-day period. (ECF 27 at 1). The Court will, therefore, deny Plaintiff's Motion for Leave to File Amended Complaint based on the futility of the Court's granting the Motion. *See Foman v. Davis*, 371 U.S. 178, 182 (1962) ("in the absence of any apparent or declared reason," such as "futility of amendment," leave to amend should be "freely given," but it is within a court's discretion to deny a motion to amend); *Sherman v. Winco Fireworks, Inc.*, 532 F.3d 709, 705 (8<sup>th</sup> Cir. 2008) (district court properly denies a motion for leave to amend where there are compelling reasons to do due so, such as "futility of the amendment") (citation omitted)..

Dated this 15th Day of November 2017.

/s/ Jean C. Hamilton  
UNITED STATES DISTRICT JUDGE