

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

MEMORANDUM AND ORDER

This matter is before the Court upon the application of plaintiff for leave to commence this action without payment of the required filing fee. *See* 28 U.S.C. § 1915(a). The Court has reviewed the motion and the financial information submitted in support, and has determined that plaintiff is unable to pay the filing fee. The motion will be granted, and plaintiff will be required to file an amended complaint within thirty (30) days of the date of this Memorandum and Order.

Background

Plaintiff brings this action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, for alleged race discrimination.¹ Named as defendant is Burlington Stores. Plaintiff attached to the complaint a right to sue letter from the Missouri Commission on Human Rights (“MCHR”) dated August 30, 2017, and a right to sue letter from the Equal Employment Opportunity Commission (“EEOC”) dated June 28, 2017. However, in the complaint itself, plaintiff left the “Statement of Claim” section blank. While plaintiff attached a copy of the Charge of Discrimination he filed with the MCHR, this is not entirely sufficient. Plaintiff is required to set forth to the Court the claims he intends to bring in this lawsuit. Accordingly,

¹On September 25, 2017, plaintiff filed a similar lawsuit against Burlington Stores under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, for alleged retaliation. *See Lee v. Burlington Stores*, Case No. 4:17-cv-2468-HEA (E.D. Mo. Sept. 25, 2017).

plaintiff will be given the chance to file an amended complaint to fully set forth his claims against defendant.

Plaintiff is required to submit the amended complaint on a court-provided form, and the amended complaint must comply with Rules 8 and 10 of the Federal Rules of Civil Procedure. Rule 8(a) requires that a complaint contain a short and plain statement of the claim showing that the pleader is entitled to relief, and a demand for the relief sought. Rule 10(b) requires that a party must state his claims or defenses in separately numbered paragraphs, each limited as far as practicable to a single set of circumstances. In the amended complaint, plaintiff should also clearly state whether he intends to pursue a claim or claims under the Missouri Human Rights Act.

Plaintiff shall have thirty (30) days from the date of this Order to file his amended complaint. Plaintiff is warned that the filing of the amended complaint completely replaces the original, and claims that are not re-alleged are deemed abandoned. *E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005).

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis ([Docket No. 2](#)) is **GRANTED**.

IT IS FURTHER ORDERED that, within thirty (30) days of the date of this Order, plaintiff shall file an amended complaint in accordance with the above instructions.

IT IS FURTHER ORDERED that the Clerk shall mail to plaintiff a copy of a blank Employment Discrimination Complaint form.

The failure to timely comply with this order may result in the dismissal of this case, without prejudice and without further notice.

Dated this 27th day of September, 2017.

/s/ Nannette A. Baker

NANNETTE A. BAKER

UNITED STATES MAGISTRATE JUDGE