

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EDWARD PARTEE, JR.,)	
)	
Plaintiff,)	
)	
v.)	No. 4:17-cv-02827-AGF
)	
ELDERCARE MANAGEMENT)	
SERVICES,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This pro se action claiming disability discrimination and retaliation is before the Court Plaintiff’s motion (ECF No. 23) for leave to file a second amended complaint. Plaintiff has already amended his complaint once as a matter of course under Federal Rule of Civil Procedure 15(a)(1), and in light of this amendment, the Court denied as moot Defendant’s motion to dismiss the original complaint. Defendant then filed a new motion to dismiss with respect to the amended complaint, and rather than responding to the motion, Plaintiff filed the current motion for leave to amend his complaint. The Case Management Order’s deadline for seeking leave to amend the pleadings has not yet expired.

The proposed second amended complaint asserts the same causes of action as the previously-filed complaint, but separates these claims into counts, and also increases the amount of damages claimed based on Plaintiff’s review of the evidence and of the results in similar cases. Plaintiff also contends that his proposed second amended complaint “amplifies” his allegations in support of Defendant’s vicarious liability for the discriminatory and retaliatory actions of its agent, Plaintiff’s supervisor.

Defendant opposes the motion, arguing that the proposed amendment is futile and would merely result in the filing of a new motion to dismiss, asserting the same arguments for dismissal which Defendant has previously asserted.

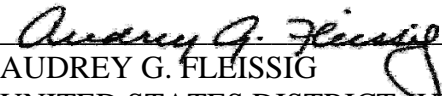
In light of the liberal amendment standard under Rule 15(a)(2), as well as Plaintiff's attempt to allege his claims with more specificity, the Court will grant Plaintiff's motion to amend. The Court will allow Defendant to refile its motion to dismiss within 14 days, and will order Plaintiff to respond to that motion within seven days thereafter. No further leave to amend will be granted by the Court absent good cause shown.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion for leave to file a second amended complaint is **GRANTED**. ECF No. 23. The Clerk of Court shall file ECF No. 26 as Plaintiff's Second Amended Complaint.

IT IS FURTHER ORDERED that Defendant's motion to dismiss is **DENIED as moot**. ECF No. 21. However, Defendant may, no later than **14 days** from the date of this Memorandum and Order, refile its motion to dismiss or file a new such motion addressed to the second amended complaint. Plaintiff shall have **seven days** to file any opposition to such a motion to dismiss, and Defendant shall have **seven days** thereafter to file any reply.

IT IS FURTHER ORDERED that no further leave to amend will be granted to Plaintiff absent good cause shown.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 25th day of June, 2018.