

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

|                               |   |                             |
|-------------------------------|---|-----------------------------|
| DARRYL L. WEBER,              | ) |                             |
|                               | ) |                             |
| Plaintiff,                    | ) |                             |
|                               | ) |                             |
| vs.                           | ) | Case No. 4:14-CV-1118-W-ODS |
|                               | ) |                             |
| IBEW LOCAL 124 APPRENTICESHIP | ) |                             |
| BOARD MEMBERS, R.F. FISHER    | ) |                             |
| ELECTRIC COMPANY, TOM FURMAN  | ) |                             |
| and GAVIN SEELY,              | ) |                             |
|                               | ) |                             |
| Defendants.                   | ) |                             |

ORDER DENYING DEFENDANT GAVIN SEALY'S  
MOTION TO DISMISS WITHOUT PREJUDICE

On December 19, 2014, Plaintiff Darryl I. Weber ("Plaintiff") filed a Motion for Leave to proceed in forma pauperis asserting claims of race, color, sex, age and disability discrimination. Doc. #1. On December 22, 2014, the Court deferred consideration of Plaintiff's motion and ordered Plaintiff to provide a description of the factual events giving rise to his claims. Doc. #4. On January 8, 2015, Plaintiff responded to the Court's Order by providing several (1) EEOC, Missouri Commission on Human Rights, and Kansas Human Rights Commission Charges of Discrimination and (2) Confidential Witness Affidavits in conjunction with National Labor Relations Board proceedings. Doc. #5. On January 20, 2015, the Court ordered Plaintiff to identify each alleged adverse employment action, describe each alleged adverse employment action including the date and the decisionmaker, and provide facts supporting the claim that each alleged adverse employment action was discriminatory. Doc. #6. On February 2, 2015, Plaintiff responded to the Court's Order by submitting an Amended Complaint. Doc. #7. On February 6, 2015, the Court granted Plaintiff's Motion to Proceed in Forma Pauperis. Doc. #8.

A review of the Record reflects that Plaintiff's initial Complaint was filed instead of Plaintiff's later amended Complaint. Defendant Gavin Sealy's Motion to Dismiss also appears to target the initial Complaint. Doc. #23.

The Court intended for Plaintiff's Amended Complaint to be filed and for that to be the operative pleading in this case. Accordingly, the Clerk of Court is directed to file Doc. #7 as the Amended Complaint in this matter. In light of this, Defendant Gavin Sealy's Motion to Dismiss is deemed moot and denied without prejudice. Defendant Sealy is free to file a Motion to Dismiss that targets the Amended Complaint.

IT IS SO ORDERED.

DATE: April 14, 2015

/s/ Ortrie D. Smith  
ORTRIE D. SMITH, SENIOR JUDGE  
UNITED STATES DISTRICT COURT