

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

ROGER N.M. ONDOUA

Plaintiff,

vs.

MONTANA STATE UNIVERSITY,
et. al.,

Defendant.

CV 18-05-GF-BMM-JTJ

ORDER

Plaintiff Robert N.M. Ondoua filed his Third Amended Complaint against Montana State University (“MSU”) on November 1, 2018. (Doc. 27.) Ondoua alleges that MSU and ten individual MSU employees discriminated and retaliated against him in connection with his employment. Ondoua’s Third Amended Complaint contained twenty causes of action. *Id.* MSU moved for judgment on the pleadings on December 17, 2018. (Doc. 33.) Magistrate Judge John Johnston held a hearing on MSU’s motion on February 13, 2019. (Doc. 46.)

Defendants asserted that all twenty counts contained in Ondoua’s Third Amended Complaint should be dismissed. Ondoua agreed that Counts 7, 8, 9, 15, and 16, should be dismissed without prejudice. Ondoua further agreed that Count

20 should be dismissed with prejudice. Ondoua opposed dismissal of each remaining count.

Judge Johnston concluded that Ondoua's Third Amended Complaint remained deficient. (Doc. 50 at 1.) Judge Johnston determined that the remaining claims failed to provide MSU notice of the allegations. *Id.* Judge Johnston determined that the remaining claims failed to identify specific Defendants responsible for the conduct at issue in each claim. *Id.* Judge Johnston further determined that Ondoua's Third Amended Complaint failed to provide a short and plain statement of the legal and factual basis for each alleged cause of action. *Id.* at 1-2.

Judge Johnston provided Ondoua an opportunity to cure the defects contained in the remaining counts. Judge Johnston required Ondoua to file an amended preliminary pretrial statement on or before March 6, 2019. Judge Johnston required Ondoua's amended preliminary pretrial statement to identify the specific Defendants that are responsible for each alleged cause of action, and provide a short and plain statement of the legal and factual basis for each alleged cause of action. (Doc. 50 at 2.) The Court granted Ondoua's motion for an extension of time to file his amended preliminary pretrial statement until March 13,

2019. (Doc. 62.) Ondoua timely filed his Amended Preliminary Pretrial Statement. (Doc. 64.)

MSU filed its objection to Judge Johnston's Findings and Recommendations on March 12, 2019. (Doc. 63.) MSU asserts that Judge Johnston incorrectly determined that MSU's motion for Judgement on the Pleadings should be denied with respect to the remaining deficient counts. MSU argues that it is entitled to judgment on the pleadings with respect to the remaining counts. *Id.* at 2.

The Court reviews de novo Findings and Recommendations timely objected to. 28 U.S.C. § 636(b)(1). "A party makes a proper objection by identifying the parts of the judge's disposition that the party finds objectionable and presenting legal argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result." *Montana Shooting Sports Ass'n v. Holder*, 2010 WL 4102940, at *2 (D. Mont. Oct. 18, 2010) (citation omitted).

Judge Johnston directed Ondoua to cure the deficiencies contained in Ondoua's Third Amended Complaint on or before March 13, 2019. (Docs. 50, 62.) Judge Johnston directed Ondoua to cure these deficiencies through an amended preliminary pretrial statement. *Id.* MSU asks the Court to dismiss the deficient remaining counts based on the deficiencies contained in Ondoua's Third Amended

Complaint. MSU moves the Court to dismiss these counts prior to allowing Ondoua an opportunity to cure these defects through a preliminary pretrial statement, as directed by Judge Johnston. MSU's objection to Judge Johnston's Findings and Recommendations proves premature. The Court finds no error in Judge Johnston's Findings and Recommendations. MSU may file a second motion addressing Ondoua's claims if it continues to believe that Ondoua's claims contained in his Amended Preliminary Pretrial Statement remain deficient.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 50) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that MSU may renew its motion for Judgment on the Pleadings if it continues to believe that Ondoua's claims contained in Ondoua's Amended Preliminary Pretrial Statement (Doc. 64) remain deficient.

DATED this 21st day of March, 2019.



Brian Morris
United States District Court Judge