

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

James Jiggetts,

Plaintiff,

-v-

United Parcel Service, et al.,

Defendants.

**USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: MAR 23 2016**

14-cv-8291 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

Plaintiff James Jiggetts, proceeding *pro se*, brings this action against the United Parcel Service (“UPS”), John Mannion, Jiggetts’s former supervisor at UPS, Doug Trandiak, a Human Resources Manager at UPS (together with Mannion and UPS, “the UPS Defendants”) and Mohanie Sukhu,¹ a private security guard who worked with Jiggetts at UPS. Jiggetts raises several claims relating to his employment at, and eventual termination from, UPS. On February 11, 2015, Jiggetts filed an amended complaint, which included a handwritten form for *pro se* litigants that is difficult to read, as well as a typed letter to the Equal Employment Opportunity Commission (“EEOC”) outlining various claims of discrimination and retaliation from his time at UPS. Dkt. No. 5.

On July 31, 2015, the UPS Defendants moved to dismiss the amended complaint under Rules 8 and 10 of the Federal Rules of Civil Procedure. Dkt. No. 17. They argue that the amended complaint “is so indecipherable that the UPS Defendants cannot reasonably prepare a responsive pleading at this time.” Defs. Br. 1. In the alternative, the UPS Defendants have

¹ Although Ms. Sukhu is listed on the docket in this case as “Moanne Sukier,” the UPS Defendants use the correct spelling of her name in their brief, *see* Defs. Br. 2 n.1, and Jiggetts has edited the spelling of her name in his most recent filing, *see* Dkt. No. 27 at 1. It appears, however, that although Ms. Sukhu was served on June 4, 2015, *see* Dkt. No. 13, she has yet to file a response to the complaint or otherwise participate in this suit. The Court will address this issue in a separate order.

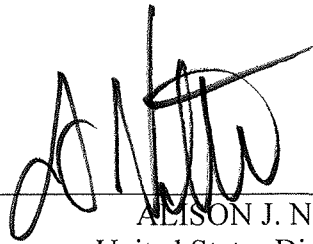
moved for an order compelling Jiggetts to file “a more definite statement” pursuant to Rule 12(e) and for dismissal of the claims against Mannion and Trandiak under Rule 12(b)(6) on the grounds that Jiggetts has not brought a cause of action that permits individual liability. Dkt. No. 17. After some back-and-forth with the Court, Jiggetts filed what he labels his opposition to the UPS Defendants’ motion on October 5, 2015. Dkt. No. 27. Although Jiggetts indicates in his opposition that he “oppose[s] the motion [to] dismiss . . . based upon ‘legibility’ grounds,” *id.* at 1, the majority of his opposition is actually a proposed second amended complaint, *see id.* at 4-7. Unlike his first amended complaint, the proposed complaint in his opposition is typed and legibly lists the statutes Jiggetts seeks to invoke. *See id.* at 5-6. But like his first amended complaint, this new complaint also includes the letter addressed to the EEOC describing the facts that form the basis of his claims. *See id.* at 26-35; *see also Leonard F. v. Israel Disc. Bank of N.Y.*, 199 F.3d 99, 107 (2d Cir. 1999) (courts should consider facts in documents appended to the complaint in deciding a motion to dismiss).

In light of the fact that Jiggetts’s proposed second amended complaint is legible, lists several statutes under which he brings suit, and includes a letter with factual allegations that may possibly raise claims for relief, the Court construes Jiggetts’s opposition as a request to file an amended complaint and grants that request. Accordingly, the second amended complaint, filed as Docket No. 27, shall be the operative pleading in this case going forward. The Court therefore administratively denies the UPS Defendants’ motion to dismiss. The UPS Defendants shall have 21 days from the date of this Order to either file a new motion to dismiss, indicate that they are relying on their existing motion to dismiss, or otherwise respond to the second amended complaint.

This resolves Docket No. 17.

SO ORDERED.

Dated: March 23, 2016
New York, New York



ALISON J. NATHAN
United States District Judge