Roberts et al v. International Business Machines Corporation Doc. 49


USDC SDNY
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ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/25/2023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

R. KEVIN RODRIGUEZ, et al,
Plaintiffs,

v.

INTERNATIONAL BUSINESS MACHINES CORPORATION,
Defendant.

**ORDER**

21 CV 9928 (VB)

On April 24, 2023, defendant moved to dismiss the complaint. (Doc. #47).

Accordingly, it is hereby ORDERED that, by no later than May 4, 2023, plaintiffs must notify the Court by letter whether they (i) intend to file an amended complaint in response to the motion to dismiss, or (ii) will rely on the complaint that is the subject of the motion to dismiss.

If plaintiffs elect not to file an amended complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiffs a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in defendant's motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility"); accord F5 Cap. v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If plaintiffs elect to file an amended complaint, they must do so by no later than 14 days after notifying the Court of their intent to do so. Within 21 days of such amendment, defendant may either: (i) file an answer to the amended complaint; (ii) file a motion to dismiss the amended complaint; or (iii) notify the Court by letter that it is relying on the initially filed motion to dismiss.

Dated: April 25, 2023
White Plains, NY

SO ORDERED:

Vincent L. Briccetti
United States District Judge

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