

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:11-CV-237-F

LESONYA JEFFERSON,)
Plaintiff,)
)
v.)
)
BIOGEN IDEC INC.,)
Defendant.)

ORDER

This matter is before the court on motion [DE-13] of defendant, Biogen IDEC, Inc. (“Biogen”), seeking either denial of an implied Motion to Amend [DE-11] or, alternatively, to dismiss the “Amended Complaint” [DE-11] insofar as it purports to allege claims under the Americans With Disabilities Act of 1990 (as amended), 42 U.S.C. § 12101, *et seq.*, and wrongful discharge in violation of North Carolina’s common law. The plaintiff, LeSonya Jefferson (“Jefferson”), has filed no response to Biogen’s motion, although the time within which to do so has expired.


In the interest of judicial economy, Jefferson’s failure to file a response or other objection, and the court’s consideration of the record herein and the applicable law, the court ADOPTS the rationale set forth in Biogen’s Memorandum [DE-14] for ruling as follows:

The court deems Jefferson’s “Amended Complaint” [DE-11], in fact to be a motion to amend her Complaint [DE-1, Exh. A], filed in Wake County Superior Court on April 13, 2011, and removed to this court on May 12, 2011. *See* [DE-1]. For the reasons cogently set forth in Biogen’s Memorandum [DE-14], Jefferson’s motion to amend her Complaint is DENIED as futile, and the document, “Amended Complaint” [DE-11] is STRICKEN. Biogen’s Amended

Answer [DE-12] is STRICKEN as surplusage. The Clerk of Court is DIRECTED to continue management of this case¹.

SO ORDERED.

This, the 11th day of August, 2011.



JAMES C. FOX
Senior United States District Judge

¹ Biogen's motion and memorandum do not seek dismissal of the North Carolina wrongful discharge claim, if any, contained in the Complaint [DE-1, Exh. A], removed from Wake County Superior Court.