

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO: 5:11-CV-00627-BR

JOSEPH GILREATH,)	
)	
Plaintiff,)	ORDER
)	
v.)	
THE CUMBERLAND COUNTY BOARD OF)	
EDUCATION,)	
)	
)	
Defendant.)	

This matter is before the court on defendant’s renewed motion to dismiss and plaintiff’s unsigned motion for an extension of time to file his amended complaint.

By way of background, plaintiff initiated this action on 30 September 2011 in state court, alleging that defendants have violated his rights under the Americans with Disabilities Act (“ADA”), 29 U.S.C. § 12101 *et seq.* Defendants removed the action to this court on 3 November 2011 and subsequently filed a motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). On 10 April 2012, the court granted in part and denied in part defendants’ motion to dismiss. The court dismissed the individual defendants from the action, leaving only the Cumberland County Board of Education (the “Board”) as the defendant. The court also dismissed any claim other than ones for discrimination and retaliation under the ADA. While recognizing that plaintiff had failed to allege the nature of his disability, the court allowed plaintiff 15 days within which to file an amended complaint to add such allegation.

On 26 April 2012, the Board renewed its motion to dismiss based on plaintiff’s failure to

file the amended complaint. Several hours later, plaintiff filed the instant motion for extension of time to file the amended complaint based on technical difficulties and contemporaneously filed the amended complaint.

Although the court ALLOWS the motion for extension of time, plaintiff's counsel is hereby warned that he must comply with all requirements for electronic filing which are found on the court's website, www.nced.uscourts.gov, under "CM/ECF" and that he must promptly comply with all directions from the Clerk's office concerning deficiencies associated with documents he files; failure to do so may result in the imposition of sanctions. Because the amended complaint sufficiently alleges the nature of plaintiff's disability, the motion to dismiss is DENIED.

This 28 June 2012.



W. Earl Britt
Senior U.S. District Judge