

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10cv462
[consolidated with 3:10cv543]**

THE CATO CORPORATION,)
)
 Plaintiff,)
)
 Vs.)
)
 L.A. PRINTEX INDUSTRIES, INC.,)
)
 Defendant.)

ORDER

L.A. PRINTEX INDUSTRIES, INC.,)
)
 Plaintiff,)
)
 Vs.)
)
 THE CATO CORP., a Delaware corporation;)
 VOLUMECOCOMO APPAREL, INC., a))
 California Corporation; LI & FUNG LTD.,)
 a Hong Kong Limited Company; LF USA,)
 INC., a New York Corporation; and)
 DOES 3 through 10,)
)
 Defendants.)

THIS MATTER is before the court on The Cato Corporation’s Motion to Strike Amended Complaint. Having considered The Cato Corporation’s motion and reviewed the pleadings, the court enters the following findings, conclusions, and Order.

FINDINGS AND CONCLUSIONS

L.A. Printex Industries, Inc. (“L.A. Printex”) sought leave of court to file an amended complaint. In its Motion for Leave, L.A. Printex asserted that its proposed amended complaint “would add two new corporate defendants.” Along with its Motion, L.A. Printex submitted a supporting memorandum and a copy of its proposed amended complaint, which named two

additional parties: VOLUMECOCOMO APPAREL, INC. and LI & FUNG, LTD. Based on such representations, the court allowed L.A. Printex to amend its Complaint. Despite such specific representations to the court, L.A. Printex filed an amended complaint against three additional parties, this time including LF USA, Inc. Thus, L.A. Printex's Amended Complaint has been filed in violation of Rule 15, Federal Rules of Civil Procedure, and such portions as were not included in the proposed Amended Complaint will be stricken.

Finally, the parties have spent a great deal of time discussing whether such proposed defendant is even a proper party to this case as the statute of limitations has expired as to claims against such defendant. L.A. Printex argues that its claims should relate back while The Cato Corporation has cited decisions of the Court of Appeals for the Fourth Circuit that provide such amendment would not relate back. As that issue is not properly before the court, it will not be addressed.

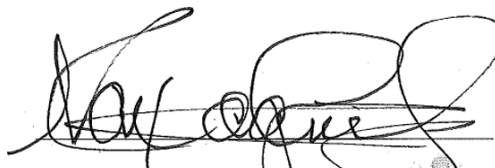
* * *

Representing that a document constitutes the "proposed amended complaint" and then filing a document that exceeds such proposal is troubling. The court does not expect that such will recur in this case.

ORDER

IT IS, THEREFORE, ORDERED that The Cato Corporation's Motion to Strike Amended Complaint (#27) is **GRANTED**, and the Amended Complaint is **STRICKEN** insofar as it exceeded the Proposed Amended Complaint earlier submitted to the court.

Signed: March 27, 2012



Max O. Cogburn Jr.
United States District Judge