

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:14-cv-00664-FDW-DCK

ARTHEA HOFFMAN, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FAMILY DOLLAR STORES OF NORTH )  
 CAROLINA, INC., )  
 )  
 Defendant. )

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ORDER & NOTICE

**THIS MATTER** is before the Court sua sponte after Plaintiff’s filing of Document 8 entitled “Addendum.” Although Plaintiff has captioned this document an “Amended Complaint,” Defendant has not incorporated by reference the allegations contained in his original complaint. (Doc. No. 1). In light of Plaintiff’s *pro se* status, the Court has liberally construed the “Addendum” as a motion to amend the complaint.

Federal Rule of Civil Procedure 15 applies to the amendment of pleadings and allows a party to amend once as a matter of course within 21 days after serving, or “if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed.R.Civ.P. 15(a)(1). Rule 15 further provides:

(2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.

Fed.R.Civ.P. 15(a)(2).

Under Rule 15, a “motion to amend should be denied only where it would be prejudicial, there has been bad faith, or the amendment would be futile.” Nourison Rug Corporation v.

Parvizian, 535 F.3d 295, 298 (4th Cir. 2008) (citing HCMF Corp. v. Allen, 238 F.3d 273, 276-77 (4th Cir. 2001); see also Foman v. Davis, 371 U.S. 178, 182 (1962)). However, “the grant or denial of an opportunity to amend is within the discretion of the District Court.” Pittston Co. v. U.S., 199 F.3d 694, 705 (4th Cir. 1999) (quoting Foman, 371 U.S. at 182).

The undersigned is not persuaded that there is sufficient evidence of prejudice, bad faith, or futility to outweigh the policy favoring granting leave to amend. After careful consideration of the record and the motions, the undersigned finds that Plaintiff’s motion to amend is GRANTED. As such, both of Defendant’s Motions to Dismiss (Doc. Nos. 3, 11) are DENIED WITHOUT PREJUDICE AS MOOT.

Plaintiff is hereby directed to submit a complete amended complaint, **incorporating all allegations found in the original complaint and the “Addendum,”** within seven (7) days of this Court’s order, on or before January 19, 2015. If Defendant wishes to re-file its Motion to Dismiss, it may do so within seven (7) days after Plaintiff files his Amended Complaint.

The Clerk is respectfully directed to send a copy of this Notice to Plaintiff at 5851 Reddman Road, Apt. 13, Charlotte, NC 28212, at to counsel for the Defendants.

IT IS SO ORDERED.

Signed: January 12, 2015



Frank D. Whitney  
Chief United States District Judge

