

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:17-cv-00160-FDW-DSC

E. RAY RAYNOR,)
)
 Plaintiff,)
)
 vs.)
)
 G4S SECURE SOLUTIONS (USA) INC., *et*)
 al.,)
)
 Defendants.)
)
 _____)

ORDER

THIS MATTER is before the Court on Defendant G4S Secure Solutions (USA), Inc.’s Motion to Strike Plaintiff’s Third Amended Complaint (Doc. No. 67).

The Court incorporates the background set forth in its Order on Defendant G4S Secure Solutions (USA), Inc.’s Motion to Strike Plaintiff’s Amended Complaint (Doc. No. 63) herein. In that January 2, 2018 Order (Doc. No. 63), the Court granted the motion to strike and ordered Plaintiff to file an Amended Complaint consistent with the motion to amend complaint to conform to evidence granted by the Court. The Court further stated:

Plaintiff’s failure to timely file the amended complaint or filing of an amended complaint that includes amendments beyond those set forth in Exhibit 3 of Plaintiff’s motion to amend complaint to conform to evidence shall be deemed a waiver of his right to file an amended complaint consistent with the Court’s December 18, 2016 leave. Any additional amendment or later amendments require further leave of the Court under Federal Rule of Civil Procedure 15(a)(2).


(Doc. No. 63 at 3). Plaintiff timely filed an Amended Complaint on January 2, 2018 (Doc. No. 64). Subsequently on January 2, 2018, G4S Secure Solutions (USA), Inc. (“G4S”) moved for judgment on the pleadings (Doc. No. 65). The Court denied G4S’s motion for judgment on the pleadings (Text Only Order denying Doc. No. 65, Jan. 3, 2018). Then, on January 3, 2018, G4S

moved to strike the Amended Complaint filed on January 2, 2018. G4S argues that Plaintiff has violated the Court's January 2, 2018 Order by including an "Amended Statement of Facts Confirming to Recent Discovered Evidence" and modifications in paragraph 12 and the prayer for relief that were not included in Exhibit 3 of Plaintiff's motion to amend complaint to conform to evidence (Doc. No. 43-3). (Doc. No. 67 at 3-4).

Rule 12(f) of the Civil Rules of Procedure allow a party to move to strike a pleading "either before responding to the pleading or, if a response is not allowed within 21 days after being served with the pleading." As G4S filed a motion for judgment on the pleadings of the Amended Complaint filed on January 2, 2018 before moving to strike, G4S has responded to the pleading before moving to strike. The Court also has already addressed G4S's motion for judgment on the pleadings and concluded that Plaintiff has plead plausible causes of action against G4S and that there are material questions of fact to be resolved. Thus, the motion to strike the Amended Complaint filed on January 2, 2018 is untimely, and striking the Amended Complaint would not advance the progress of litigation, see 2-12 Moore's Federal Practice § 12.37 (Matthew Bender 3d. Ed.). In light of this, the Court declines to address whether the Amended Complaint filed on January 2, 2018 failed to comply with the Court's Order. Therefore, the Court DENIES G4S's motion to strike the Amended Complaint filed on January 2, 2018 (Doc. No. 67).

IT IS SO ORDERED.

Signed: January 3, 2018


Frank D. Whitney
Chief United States District Judge

