

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

NICHOLAS ALAHVERDIAN,

Plaintiff,

-vs-

STATE OF OHIO, et al.,

Defendants.

:

Case No. 3:13-cv-132

:

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

:

ORDER STRIKING “FIRST AMENDED COMPLAINT”

On October 21, 2013, the Court ordered Plaintiff to file an amended complaint not later than November 1, 2013, in lieu of ordering a definite statement as Defendants had requested (Doc. No. 14, PageID 123).

On November 1, 2013, Plaintiff, now represented by counsel, filed a document captioned “Second Amended Complaint,” even though no prior amended complaint had been filed (Doc. No. 15). Then, on November 4, 2013, Plaintiff through counsel filed what is captioned “First Amended Complaint” (Doc. No. 16).

Fed. R. Civ. P. 15(a)(1) allows one amendment of a complaint as a matter of course within twenty-one days after it has been served or twenty-one days after service of a responsive pleading or a motion under Fed. R. Civ. P. 12(b), (e), or (f), whichever is earlier. The “Second Amended Complaint” was not filed within the time allowed by Fed. R. Civ. P. 15(a)(1), but rather within the time allowed by the Court in its Order of October 21, 2013. Although it is mislabeled, the “Second Amended Complaint” was properly filed.

However, Plaintiff neither sought nor obtained court permission or written consent of opposing counsel to file the “First Amended Complaint”, which is hereby STRICKEN.

November 4, 2013.

s/ *Michael R. Merz*
United States Magistrate Judge