

IT IS FURTHER ORDERED that Plaintiff's First Amended Complaint (Document No. 36) is **DISMISSED WITHOUT PREJUDICE** to plaintiff's right to file, within thirty (30) days, a second amended complaint which complies in all respects with the Memorandum and Order dated December 20, 2012 and the attached Memorandum dated March 1, 2013. In this connection the Court notes that, contrary to plaintiff's statements, the filing of an amended complaint which asserts claims that arose out of the conduct or occurrence set out in the original complaint relates back to the date of filing of the original complaint pursuant to Federal Rule of Civil Procedure 15(c). That same Rule provides for the relation back of an amended complaint which changes the party against whom a claim is asserted under specified circumstances.

IT IS FURTHER ORDERED that Plaintiff's Motion to Stay Amended Complaint (Document No. 37, filed January 18, 2013) is **DENIED AS MOOT** in view of the dismissal of the First Amended Complaint without prejudice.

IT IS FURTHER ORDERED that Defendants, AlliedBarton Security Services LLC, Daniel Rosiello and Diane Kowalski's Motion to Dismiss Plaintiff's First Amended Complaint for Failure to State a Claim upon which Relief Can Be Granted (Document No. 41, filed February 1, 2013), and Defendants' Motion to Dismiss Plaintiff's First Amended Complaint filed by the City defendants (Document No. 43, filed February 1, 2013) are **DENIED AS MOOT**.¹

IT IS FURTHER ORDERED that Plaintiff's Motion to Stay Opposition to Defendants' Motion for Dismissal (Document No. 49, filed February 22, 2013) is **DENIED AS MOOT**.

¹ Plaintiff filed an opposition to the City Defendants' motion to dismiss on February 20, 2013 (Document No. 45) and an opposition to AlliedBarton's motion to dismiss on February 22, 2013 (Document No. 48).

IT IS FURTHER ORDERED that Plaintiff's Motion to Strike Affirmative Defenses in Defendant City of Philadelphia's Answer (Document No. 46, filed February 20, 2013) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that plaintiff's Motion to Stay Proceedings (Document No. 32, filed January 17, 2013), is **DENIED**. That Motion states "an [a]ppeal has been taken in this matter to correct all of discretion this court abused. Accordingly, a stay until disposition of appeal and justice is returned, needs to follow." That is an incorrect statement. No appeal has been taken from the Memorandum and Order of December 20, 2012, granting plaintiff leave to file an amended complaint consistent with the Memorandum and Order of December 20, 2012, within thirty (30) days.

BY THE COURT:

/s/ Hon. Jan E. DuBois
JAN E. DuBOIS, J.