

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Phyllis A. Wilson,)	C/A No. 3:15-1391-MGL-PJG
)	
Plaintiff,)	
)	ORDER
v.)	
)	
Richland County,)	
)	
Defendant.)	
_____)	

This is a civil action filed by a *pro se* litigant. Under Local Civil Rule 73.02(B)(2) (D.S.C.), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

By order issued on September 24, 2015 (ECF No. 43), the Honorable Mary Geiger Lewis granted a Motion to Dismiss filed by Defendant John A. Cloyd (ECF No. 20) and a Motion to Dismiss and Substitute Parties filed by Defendant Elizabeth McDonald (ECF No. 24)¹. The order further granted Plaintiff leave to amend the Complaint to name Richland County as the proper defendant in this case. (ECF No. 43 at 2.) Plaintiff timely submitted an Amended Complaint naming Richland County as the sole defendant in this action. (ECF No. 50.)

TO THE PARTIES:

Having reviewed the Amended Complaint in accordance with the applicable law, the court construes it as purporting to assert the following claims against the defendant:

- discrimination based on Plaintiff’s race in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §§ 2000e, *et seq.*; and
- discrimination in violation of the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. §§ 621, *et seq.*

No other claims are being construed as having been raised by Plaintiff in this action.

¹ Defendant McDonald’s Motion to Dismiss and Substitute Parties sought the substitution of Richland County as the sole defendant in this case. (ECF No. 24-1 at 4.)

PJG

MOTION TO AMEND:

Plaintiff filed a Motion to Amend the Complaint (ECF No. 49) contemporaneously with the Amended Complaint (ECF No. 50). Plaintiff's Motion to Amend (ECF No. 49) is terminated as moot in light of the previously issued order (ECF No. 43) granting Plaintiff leave to amend the Complaint.

PAYMENT OF THE FILING FEE:

Plaintiff also filed an unsigned Application to Proceed in District Court Without Prepaying Fees or Costs (Form AO 240), which has been construed as a motion for leave to proceed *in forma pauperis* in this case.² (ECF No. 52.) The court has already granted Plaintiff permission to proceed in this case without prepayment of the filing fee. (ECF No. 8.) Therefore, Plaintiff's duplicate motion shall be terminated as moot. (ECF No. 52.)

SERVICE OF THE AMENDED COMPLAINT:

Counsel for Richland County filed a reply (ECF No. 45) to the order granting the motion to substitute Richland County as the proper defendant in this case (ECF No. 43). The reply indicates that counsel is authorized to accept service of an Amended Complaint naming Richland County. (ECF No. 45.) Thus, service of the Amended Complaint (ECF No. 50) was accomplished via a Notice of Electronic Filing generated by the court's Electronic Filing System to counsel and Richland County filed an answer to the Amended Complaint (ECF No. 54).

TO DEFENDANT:

While it does not appear that Richland County contests the manner of service in this case, this defendant is directed to file a Waiver of Service with the court within fourteen (14) days of the issuance of this order. If no such waiver is received, the court will direct that service of process be effected by the United States Marshal.

TO PLAINTIFF:

Pursuant to Rule 5 of the Federal Rules of Civil Procedure, any documents filed subsequent to the initial pleading must be served on parties. Unless otherwise ordered, service of subsequently filed documents on a defendant represented by an attorney is made on the attorney. Service on attorneys who have made an appearance in this court is effected by the court's Electronic Case Filing system through a computer generated notice of electronic filing. However, prior to the defendant's attorney making an appearance in this court, Plaintiff must serve the defendant with any documents Plaintiff files subsequent to the initial pleading and file a certificate of service that states who was served, what document was served, and how the document was served.

² The Motion is dated March 3, 2015. (ECF No. 52 at 2.) Thus, it appears that Plaintiff resubmitted her originally filed AO 240 to the court with the Amended Complaint.

IT IS SO ORDERED.



Paige J. Gossett

UNITED STATES MAGISTRATE JUDGE

October 19, 2015
Columbia, South Carolina