

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**QUIANA JOHNSON, as parent and next
friend of REGINALD DEWAYNE
WALLACE II, a minor; KARISSA
SWEAT; and WAYNNESIA BROOKS,**

Plaintiffs,

vs.

**CASE NO. 3:10-0589
JUDGE CAMPBELL/KNOWLES**

JURY DEMAND

**METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON
COUNTY; JOE SHELTON, in his
official and individual capacities; JOHN
DOE POLICE OFFICERS #1-#20, in
their official and individual capacities,**

Defendants.

ORDER

This matter is before the Court upon Plaintiffs’ “Motion for Leave to File Amendment to Complaint.” The Motion cites Rule 15(a)(2) and states in part, “no answer has been filed by any Defendant in this matter.” Docket No. 16. Defendants have filed a Response in Opposition to the Motion (Docket No. 17). Plaintiffs, with leave of Court (Docket No. 19) have filed a Reply (Docket No. 20).

Rule 15(a)(1)(B) provides as follows:

(a) Amendments Before Trial.

(1) Amending is a Matter of Course. A party may amend its pleading once as a matter of course within:

...

(B) 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.*

(Emphasis added.)

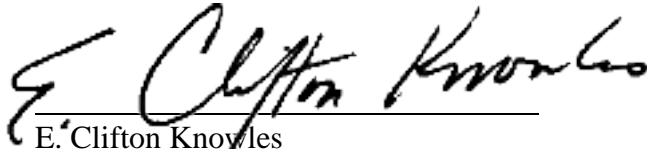
As Plaintiffs note, no answer (*i.e.*, no responsive pleading) has been filed by any Defendant. On July 9, 2010, Defendant Metropolitan Government filed a Motion to Dismiss. Docket No. 9. Also on July 9, 2010, Defendant Joe Shelton filed a Motion to Dismiss. Docket No. 11. Both these Motions raise issues under Rule 12(b).

Therefore, under Rule 15(a)(1)(B), Plaintiffs may amend their Complaint as a matter of course within 21 days after July 9, 2010.

The instant Motion was filed July 15, 2010. Thus, a Motion for Leave to Amend is unnecessary, because Plaintiffs have the right to amend their pleading as a matter of course.

For the foregoing reasons, the instant Motion (Docket No. 16) is DENIED AS MOOT. The Clerk, however, is directed to file Plaintiffs' Proposed Amended Complaint (Docket No. 16-1).

IT IS SO ORDERED.



E. Clifton Knowles
United States Magistrate Judge