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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

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ANDREW CALKINS,

Plaintiff,

v.

DAVIS SCHOOL DISTRICT, et al.,

Defendants.

**ORDER ADOPTING**

**[23] REPORT AND  
RECOMMENDATION TO DISMISS  
CLAIMS AGAINST DEFENDANTS  
DAVIS SCHOOL DISTRICT, BECKY  
WILLIAMS, AND LAURA BOND;**

**[24] REPORT AND  
RECOMMENDATION TO DISMISS  
CLAIMS AGAINST DEFENDANTS  
BOUNTIFUL CITY, MATTHEW  
COMBS, AND J.C. YNCHAUSTI; AND**

**[25] REPORT AND  
RECOMMENDATION TO DISMISS  
CLAIMS AGAINST DEFENDANT  
EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION**

Case No. 1:15-cv-00060-DN-EJF

District Judge David Nuffer  
Magistrate Judge Evelyn J. Furse

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Plaintiff Andrew Calkins, proceeding pro se, filed a complaint against Davis School District, Becky Williams, Brad Wallace, Laura Bond, Bountiful City, Matthew Combs, J.C. Ynchausti, U.S. Equal Opportunity Commission, and Melinda Caraballo (“Complaint”).<sup>1</sup>

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<sup>1</sup> Complaint, [docket no. 3](#), filed Apr. 16, 2015.

Defendants Davis School District, Becky Williams, and Laura Bond (collectively, “School District Defendants”) moved to dismiss the Complaint (“School District Motion”).<sup>2</sup> The School District Motion explains that “Brad Wallace is also a school district Defendant; but Mr. Wallace has retired from his employment with the School District, has (on information and belief) moved out of state, and has not been served, so is not properly before the Court.”<sup>3</sup> Magistrate Judge Furse “RECOMMENDS the District Court dismiss Mr. Calkins’s claims against Davis School District, Becky Williams, and Laura Bond without prejudice pursuant to Rule 12(b)(6) and grant Mr. Calkins thirty days to amend.”<sup>4</sup>

Defendants Bountiful City, Matthew Combs, and J.C. Ynchausti (collectively, “Bountiful City Defendants”) also separately moved to dismiss the Complaint (“Bountiful City Motion”).<sup>5</sup> Magistrate Judge Furse “RECOMMENDS the District Court dismiss Mr. Calkins’s claims against Bountiful City, Matthew Combs, and J.C. Ynchausti without prejudice pursuant to Rule 12(b)(6) and grant Mr. Calkins thirty days to amend.”<sup>6</sup>

Defendant U.S. Equal Employment Opportunity Commission (“EEOC”) also separately moved to dismiss the Complaint (“EEOC Motion”).<sup>7</sup> Magistrate Judge Furse “RECOMMENDS the Court dismiss Mr. Calkins’s claim against the EEOC.”<sup>8</sup> Magistrate Judge Furse did not

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<sup>2</sup> Motion to Dismiss (“School District Motion”), [docket no. 15](#), filed July 18, 2016.

<sup>3</sup> *Id.* at 1 n. 1.

<sup>4</sup> Report and Recommendation to Dismiss Claims Against Defendants Davis School District, Becky Williams, and Laura Bond (“23 R&R”) at 8, [docket no. 23](#), filed Mar. 23, 2017.

<sup>5</sup> Motion to Dismiss (“Bountiful City Motion”), [docket no. 18](#), filed July 26, 2016.

<sup>6</sup> Report and Recommendation to Dismiss Claims Against Defendants Bountiful City, Matthew Combs, and J.C. Ynchausti (“24 R&R”) at 6, [docket no. 24](#), filed Mar. 24, 2017.

<sup>7</sup> Defendant Equal Employment Opportunity Commission’s Motion to Dismiss (“EEOC Motion”), [docket no. 21](#), filed Aug. 3, 2016.

<sup>8</sup> Report and Recommendation to Dismiss Claims Against Defendant Equal Employment Opportunity Commission (“25 R&R”) at 3, [docket no. 25](#), filed Mar. 24, 2017.

specifically make a recommendation about allowing amendment of the claims against the EEOC, but, like the other recommendations, states that the dismissal should be “without prejudice.”<sup>9</sup> Thus, it is presumed that the recommendation is to allow Mr. Calkins thirty days to amend his complaint against the EEOC.

The parties were notified of their right to file objections to the Report and Recommendations within 14 days of service pursuant to [28 U.S.C. § 636](#) and [Fed. R. Civ. P. 72](#).<sup>10</sup> As of the date of this Order, no objection has been filed to the Report and Recommendations. Therefore, the analysis and conclusions of the magistrate judge are accepted and the Report and Recommendations are adopted.

### **ORDER**

IT IS HEREBY ORDERED that the 23 R&R<sup>11</sup> is ADOPTED and the School District Motion<sup>12</sup> is GRANTED.

IT IS FURTHER ORDERED that the 24 R&R<sup>13</sup> is ADOPTED and the Bountiful City Motion<sup>14</sup> is GRANTED.

IT IS FURTHER ORDERED that the 25 R&R<sup>15</sup> is ADOPTED and the EEOC Motion<sup>16</sup> is GRANTED.

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<sup>9</sup> *Id.* at 1.

<sup>10</sup> 23 R&R at 9; 24 R&R at 7; 25 R&R at 3.

<sup>11</sup> Report and Recommendation to Dismiss Claims Against Defendants Davis School District, Becky Williams, and Laura Bond (“23 R&R”), [docket no. 23](#), filed Mar. 23, 2017.

<sup>12</sup> Motion to Dismiss (“School District Motion”), [docket no. 15](#), filed July 18, 2016.

<sup>13</sup> Report and Recommendation to Dismiss Claims Against Defendants Bountiful City, Matthew Combs, and J.C. Ynchausti (“24 R&R”), [docket no. 24](#), filed Mar. 24, 2017.

<sup>14</sup> Motion to Dismiss (“Bountiful City Motion”), [docket no. 18](#), filed July 26, 2016.

<sup>15</sup> Report and Recommendation to Dismiss Claims Against Defendant Equal Employment Opportunity Commission (“25 R&R”), [docket no. 25](#), filed Mar. 24, 2017.

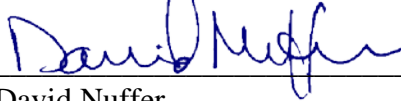
<sup>16</sup> Defendant Equal Employment Opportunity Commission’s Motion to Dismiss (“EEOC Motion”), [docket no. 21](#), filed Aug. 3, 2016.

Mr. Calkins's claims against the School District Defendants, the Bountiful City Defendants, and the EEOC are dismissed without prejudice pursuant to Rule 12(b)(6). Additionally, because Mr. Calkins's Complaint makes no allegations against Melinda Caraballo, she is dismissed as a party in this lawsuit without prejudice.

Mr. Calkins is granted thirty days to amend his claims. Failure to submit an amended complaint within thirty days will result in dismissal of all claims with prejudice and closure of the case.

Dated April 13, 2017.

BY THE COURT:



David Nuffer  
United States District Judge