

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DEBORAH COTTER, individually and as
representative of a class of participants and
beneficiaries on behalf of the Matthews
International Corporation 401(k) Plan,

Plaintiff,

v.

Case No. 20-C-1054

MATTHEWS INTERNATIONAL CORPORATION, et al.,

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

On October 17, 2022, Magistrate Judge Stephen C. Dries recommended that I grant the plaintiff's motion for leave to file a second amended complaint and deny as moot the defendants' motion to dismiss the amended complaint. The defendants filed timely objections to the recommendation pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b)(2). Therefore, this court must conduct a de novo review. Having reviewed the recommendation and objections, as well as the record as a whole, I overrule the objections and adopt the Report and Recommendation in its entirety.

The defendants request in their objections that, in the event the court adopt the Report and Recommendation, the court preclude any future amendments to the complaint. Alternatively, they request that the court stay this case pending the Seventh Circuit's decision in *Hughes v. Northwestern University*, No. 18-2569 (7th Cir.). The court will not prevent further amendment at this time. In the event the plaintiff seeks leave to amend in the future, the court will consider the plaintiff's motion, any response to the motion, and the circumstances surrounding the

plaintiff's request at the time the motion is filed. In addition, the court concludes that staying the case pending the Seventh Circuit's decision in *Hughes* is not warranted and would only delay proceedings in this case.

IT IS THEREFORE ORDERED that Magistrate Judge Dries' Report and Recommendation (Dkt. No. 46) is **ADOPTED**.

IT IS FURTHER ORDERED that the plaintiff's motion for leave to file a second amended complaint (Dkt. No. 41) is **GRANTED**. The defendants' motion to dismiss (Dkt. No. 22) is **DENIED as moot**. The Clerk is directed to detach and e-file the second amended complaint (Dkt. No. 41-1). The defendants must file a responsive pleading to the second amended complaint within 30 days of the date of this order.

Dated at Green Bay, Wisconsin this 15th day of November, 2022.

s/ William C. Griesbach

William C. Griesbach
United States District Judge