

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LYNETTE R. JACKSON,)	
)	
Plaintiff,)	
)	
v.)	
)	No. 4:24-CV-1352HEA
AMERICAN WATER UTILITY,)	
)	
Defendant.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on the motion of Defendant American Water Utility to dismiss for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6) or, in the alternative, for a more definite statement pursuant to Fed. R. Civ. P. 12(e).¹ (ECF No. 11). Also before the Court is Plaintiff Lynette R. Jackson's response and supplemental response to the Court's Order to Show Cause. (ECF Nos. 14 and 15). For the reasons that follow, the Court grants Defendant's motion for more definite statement and denies without prejudice its motion to dismiss.

¹Plaintiff identifies the defendant in this case as "American Water Utility." (ECF No. 7 at 1). In its Notice of Removal and Motion to Dismiss, Defendant states that its proper name is American Water Works Service Company, Inc. Defendant states that American Water Utility does not exist and never employed Plaintiff, but that Plaintiff was employed by American Water Works Service Company, Inc.

I. Background

On September 5, 2024, Plaintiff Lynette R. Jackson, who is proceeding in this matter *pro se* without the assistance of counsel, filed a state court Petition against American Water in the Twenty-First Judicial Circuit Court, St. Louis County, Missouri. The Petition is a one-page list of claims against Defendant that includes “employment discrimination,” “FMLA violations,” “FMLA retaliation,” “violation of employee benefit act,” “harassment,” “whistleblowing,” “wage violations,” and “violation of (Cares) Act (2020). (ECF No. 7). There are no factual allegations whatsoever. Defendant removed Plaintiff’s cause of action to this Court on the basis of federal question and diversity jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1332. Following removal, American Water filed a Motion to Dismiss for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6). In its motion, Defendant argues Plaintiff’s claims are barred by claim preclusion and the doctrine of claims splitting. Defendant also argues that Plaintiff fails to allege any facts that are sufficient to state a claim. Alternatively, American Water requests the Court order Plaintiff to provide a more definite statement setting forth the factual basis of her claims pursuant to Fed. R. Civ. P. 12(e).

Plaintiff did not respond to Defendant’s Motion to Dismiss in a timely manner, and on December 19, 2024, the Court issued an Order to Show Cause. (ECF No. 13). Plaintiff was ordered to show cause, in writing on or before January 3,

2025, why she failed to respond to Defendant's Motion to Dismiss. On January 2, 2025, Plaintiff filed a response to the Order to Show Cause, and on January 3, 2025, she filed a supplement to her response. (ECF Nos. 14 and 15).

II. Discussion

Plaintiff did not respond to Defendant's Motion to Dismiss in a timely manner. Although Plaintiff is representing herself without the assistance of counsel, she is not excused from complying with the Court's orders, the Federal Rules of Civil Procedure, and applicable local rules. *See Ackra Direct Mktg. Corp. v. Fingerhut Corp.*, 86 F.3d 852, 856 (8th Cir. 1996); *see also Faretta v. California*, 422 U.S. 806, 934-35 n.46 (1975) (pro se litigant must comply with relevant rules of procedure). Rule 4.01 of the Local Rules of the United States District Court for the Eastern District of Missouri provides, "each party opposing a motion . . . must file, within fourteen (14) days after service of the motion, a single memorandum containing any relevant argument and citations to authorities on which the party relies." E.D. Mo. L.R. 4.01(B). When a party cannot meet a deadline, that party must file a motion for leave to file a document out of time. The Court may extend the deadline for good cause shown or because of excusable neglect. Fed. R. Civ. P. 6(b).

Plaintiff states in her response, among other things, that she did not receive a copy of the motion to dismiss, and that she attempted to amend her Petition in state court. Plaintiff also states that she challenged the removal to federal court.

First, there is evidence in the record that Defendant's Motion to Dismiss was delivered to a mailbox at Plaintiff's address of record, and that she received a copy of the Show Cause Order, which was sent to the same address. Second, once a case is removed to federal court, it is no longer pending in state court. All filings must be made in the case pending in federal court. Plaintiff neither moved to amend her Petition nor filed a motion to remand in the above-caption case after it was removed from state court.

The Court, therefore, will turn to the merits of Defendant's Motion to Dismiss or, in the alternative, Motion for More Definite Statement. Defendant argues that this is the third lawsuit Plaintiff has filed against it, and that Plaintiff is precluded from bringing her claims under the doctrines of *res judicata* and claim splitting. Defendant further argues that Plaintiff's Petition is devoid of any factual allegations that could state a claim that is plausible on its face.

The Court agrees that Plaintiff's Petition is devoid of any facts. But the fact that there are no factual allegations whatsoever makes it nearly impossible to evaluate whether Plaintiff's claims are the same claims and/or whether they are

based on the same facts as the claims she raised in her prior suits.² The Court will, therefore, grant Defendant's Rule 12(e) motion for more definite statement and allow Plaintiff an opportunity to amend. *Tinder v. Lewis Cnty. Nursing Home Dist.*, 207 F.Supp.2d 951, 959 (E.D. Mo. 2001) ("A motion for more definite statement is proper when a party is unable to determine issues he must meet, or where there is a major ambiguity or omission in the complaint that renders it unanswerable.").

In order to proceed in this matter, Plaintiff must submit an amended complaint on the court-provided form. The amended complaint must comply with Rules 8 and 10 of the Federal Rules of Civil Procedure. Plaintiff is required to set out her claim(s) in a simple, concise, and direct manner, and also the facts supporting her claim(s) against the defendant. *See* Fed. R. Civ. P. 8(a)(2) (complaint should contain short and plain statement of claims); 8(d)(1) (each claim shall be simple, concise, and direct); 10(b) (parties are to separate their claims within their pleadings and the contents of which shall be limited as far as practicable to a single set of circumstances). Plaintiff must explain the factual basis of her claim(s) so that the defendant will have notice of what it is accused of doing or failing to do. *See Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 848 (8th Cir. 2014) (stating

²Plaintiff does detail a number of "facts" in her supplemental response to the show cause order. (ECF. No. 15). Defendant argues these facts support its position that Plaintiff's claims are barred by *res judicata*. The "facts" in Plaintiff supplement, however, are not allegations and, importantly, the document is not signed. All pleadings must be signed by an attorney "or by a party personally if the party is unrepresented." Fed. R. Civ. P. 11. The Court will strike Plaintiff's supplement from the record for filing error.

that the essential function of a complaint “is to give the opposing party fair notice of the nature and basis or grounds for a claim.”). In paragraph 12 of the form complaint, Plaintiff must set forth the factual allegations supporting her claim(s) against the defendant, in other words, what the defendant did. Importantly, Plaintiff must provide a timeframe for each of her claims, that is, when the alleged incidents occurred.

Plaintiff is also advised that the filing of the amended complaint completely replaces the original complaint, so it must include all claims Plaintiff wishes to bring. *See In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 928 (8th Cir. 2005) (“It is well-established that an amended complaint supersedes an original complaint and renders the original complaint without legal effect”). Furthermore, the amended complaint must be signed. Fed. R. Civ. P. 11.

Finally, if Plaintiff fails to file an amended complaint on the Court-provided form in accordance with the instructions set forth herein, the Court will dismiss this action without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that Defendant American Water Utility’s Motion to Dismiss for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6) or, in the alternative, Motion for a More Definite Statement pursuant to Fed. R. Civ. P. 12(e) is **GRANTED in part and DENIED in part**. Defendant’s Motion for More

Definite Statement is **GRANTED**. In all other respects, the Motion is **DENIED without prejudice**. [ECF No. 11].

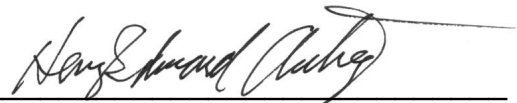
IT IS FURTHER ORDERED that the Clerk of Court shall provide Plaintiff a Court form for filing an Employment Discrimination Complaint.

IT IS FURTHER ORDERED that Plaintiff shall file an amended complaint, in accordance with the instructions set forth above, no later than **January 21, 2025**.

IT IS FURTHER ORDERED that if Plaintiff fails to timely file an amended complaint or fails to comply with the instructions set forth above relating to the filing of the amended complaint, the Court shall dismiss this action without prejudice and without further notice.

IT IS FURTHER ORDERED that Plaintiff's Supplemental Response to the Court Show Cause Order is **STRICKEN** from the record for filing error because the document is not signed. The Clerk of Court shall delete ECF No. 15 from the record.

Dated this 13th day of January, 2025.

A handwritten signature in black ink, appearing to read "Henry Edward Autrey", is written over a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE

_____ Rehabilitation Act of 1973, as amended, 29 U.S.C. §§ 701, *et seq.*, for employment discrimination on the basis of a disability by an employer which constitutes a program or activity receiving federal financial assistance.

NOTE: *In order to bring suit in federal district court under the Rehabilitation Act of 1973, you must first file charges with the appropriate Equal Employment Office representative or agency.*

_____ Other (Describe)

PARTIES

2. Plaintiff's name: _____

Plaintiff's address: _____

Street address or P.O. Box

City/ County/ State/Zip Code

Area code and telephone number

3. Defendant's name: _____

Defendant's address: _____

Street address or P.O. Box

City/County/State/ Zip Code

Area code and telephone number

NOTE: IF THERE ARE ADDITIONAL PLAINTIFFS OR DEFENDANTS, PLEASE PROVIDE THEIR NAMES, ADDRESSES AND TELEPHONE NUMBERS ON A SEPARATE SHEET OF PAPER.

4. If you are claiming that the discriminatory conduct occurred at a different location, please provide the following information:

(Street Address) (City/County) (State) (Zip Code)

5. When did the discrimination occur? Please give the date or time period:

ADMINISTRATIVE PROCEDURES

6. Did you file a charge of discrimination against the defendant(s) with the Missouri Commission on Human Rights?

☐ Yes Date filed: _____

☐ No

7. Did you file a charge of discrimination against the defendant(s) with the Equal Employment Opportunity Commission or other federal agency?

☐ Yes Date filed: _____

☐ No

8. Have you received a Notice of Right-to-Sue Letter?

☐ Yes

☐ No

If yes, please attach a copy of the letter to this complaint.

9. If you are claiming age discrimination, check one of the following:

_____ 60 days or more have passed since I filed my charge of age discrimination with the Equal Employment Opportunity Commission.

_____ fewer than 60 days have passed since I filed my charge of age discrimination with the Equal Employment Opportunity Commission.

NATURE OF THE CASE

10. The conduct complained of in this lawsuit involves (check only those that apply):

_____ failure to hire me

_____ termination of my employment

_____ failure to promote me

_____ failure to accommodate my disability

_____ terms and conditions of my employment differ from those of similar employees

_____ retaliation

_____ harassment

_____ other conduct (specify):

Did you complain about this same conduct in your charge of discrimination?

☐ Yes

☐ No

11. I believe that I was discriminated against because of my (check all that apply):

- ☐ race
- ☐ religion
- ☐ national origin
- ☐ color
- ☐ gender
- ☐ disability
- ☐ age (birth year is: _____)
- ☐ other:

Did you state the same reason(s) in your charge of discrimination?

☐ Yes

☐ No

12. State here, as briefly and clearly as possible, the essential facts of your claim. Describe specifically the conduct that you believe is discriminatory and describe how each defendant is involved in the conduct. Take time to organize your statement; you may use numbered paragraphs if you find it helpful. It is not necessary to make legal arguments, or to cite cases or statutes.

(Continue to page 6, if additional space is needed.)

(Attach additional sheets as necessary).

13. The acts set forth in paragraph 12 of this complaint:

☐ are still being committed by the defendant.

☐ are no longer being committed by the defendant.

☐ may still be being committed by the defendant.

REQUEST FOR RELIEF

State briefly and exactly what you want the Court to do for you. Make no legal arguments; cite no cases or statutes.

14. Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this _____ day of _____, 20____.

Signature of Plaintiff _____

_____ Rehabilitation Act of 1973, as amended, 29 U.S.C. §§ 701, *et seq.*, for employment discrimination on the basis of a disability by an employer which constitutes a program or activity receiving federal financial assistance.

NOTE: *In order to bring suit in federal district court under the Rehabilitation Act of 1973, you must first file charges with the appropriate Equal Employment Office representative or agency.*

_____ Other (Describe)

PARTIES

2. Plaintiff's name: _____

Plaintiff's address: _____

Street address or P.O. Box

City/ County/ State/Zip Code

Area code and telephone number

3. Defendant's name: _____

Defendant's address: _____

Street address or P.O. Box

City/County/State/ Zip Code

Area code and telephone number

NOTE: IF THERE ARE ADDITIONAL PLAINTIFFS OR DEFENDANTS, PLEASE PROVIDE THEIR NAMES, ADDRESSES AND TELEPHONE NUMBERS ON A SEPARATE SHEET OF PAPER.

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☐ Yes Date filed: _____

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☐ No

If yes, please attach a copy of the letter to this complaint.

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_____ failure to accommodate my disability

_____ terms and conditions of my employment differ from those of similar employees

_____ retaliation

_____ harassment

_____ other conduct (specify):

Did you complain about this same conduct in your charge of discrimination?

☐ Yes

☐ No

11. I believe that I was discriminated against because of my (check all that apply):

- ☐ race
- ☐ religion
- ☐ national origin
- ☐ color
- ☐ gender
- ☐ disability
- ☐ age (birth year is: _____)
- ☐ other:

Did you state the same reason(s) in your charge of discrimination?

☐ Yes

☐ No

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14. Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this _____ day of _____, 20____.

Signature of Plaintiff _____