

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

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<p>CHRISTOPHER ROLLER,  Plaintiff,  vs.  SIOUX VALLEY HOSPITAL,  Defendant.</p>	<p>CIV. 05-1420-RHK-AJB  <b>RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT</b></p>
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By motion dated March 13, 2006, Plaintiff moved the Court for leave to amend his Complaint. Defendant objects to Plaintiff's Motion for Leave to Amend Complaint (Docket No. 35) for the following reasons:

1. Plaintiff's newest Motion for Leave to Amend Complaint marks the fourth time in this case that Plaintiff has now sought to amend his Complaint. (*See* Docket Nos. 5, 15, 24, and 35.) The parties have now fully briefed their positions on Defendant's Motion to Dismiss (Docket Nos. 8 and 28), and the United States Magistrate has issued his recommendation regarding disposition of the case (Docket No. 34). Plaintiff's latest motion is merely an attempt to avoid the Magistrate's recommendation that the case be dismissed. Plaintiff should not be permitted at this late date to attempt to amend his claims yet again merely to avoid dismissal of the case. Allowing the amendment at this time would essentially restart the case and require Defendant to expend additional time and expense in chasing Plaintiff's "moving target" litigation.

Plaintiff has had ample opportunity to refine his claims and has provided no reason to the Court to allow an additional amendment at this late date.

2. Plaintiff's Motion for Leave to Amend Complaint (Docket No. 35) should be denied on the grounds that Plaintiff's claims are clearly frivolous and legally insufficient on their face. *See Wiles v. Capitol Indem. Corp.*, 280 F.3d 868, 871 (8th Cir. 2002) ("[l]eave to amend should be denied if the proposed amended pleading would be futile") (*quoting Grandson v. University of Minnesota*, 272 F.3d 568, 575 (8th Cir. 2001)). *See also* authority cited in Defendant's Response to Plaintiff's Motion for Leave to Amend Complaint (Docket No. 21).

3. Plaintiff's Motion for Leave to Amend Complaint (Docket No. 35) fails to comply with the local rules of the United States District Court for the District of Minnesota, D. MINN. LR 7.1(a)(1) and 15.1. Plaintiff's motion should therefore be dismissed for failure to comply with the local rules.

Respectfully submitted,

Dated: 3/20/2006

s/ Mark W. Haigh

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