

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

Ann Rollins Johnson,

Plaintiff,

v.

Case No. 09-2528-JWL

City of Salina et al.,

Defendants.

ORDER

On February 26, 2010, plaintiff filed a motion to amend her complaint (doc. 31) within the time frame permitted by the scheduling order. Thereafter, on March 12, 2010, defendant Salina Housing Authority and five individual defendants filed a motion to dismiss plaintiff's initial complaint (doc. 42) and, in response to plaintiff's motion to amend, requested that the court rule first on the motion to dismiss, arguing that resolution of the motion would render futile many of plaintiff's proposed amendments. These defendants did not otherwise oppose the motion to amend. Defendants City of Salina and Alan Jilka do not oppose the motion to amend and have not filed a motion to dismiss. They did, however, file a reply to plaintiff's response to the other defendants' motion to dismiss. Plaintiff has moved to strike that reply brief (doc. 52) on the grounds that the City of Salina and Mr. Jilka, as non-moving parties, are not entitled to file a reply brief.

In response to the motion to dismiss, plaintiff requests that the court permit the amendment to her complaint because many of her amendments address deficiencies highlighted

in defendants' motion to dismiss such that any motion to dismiss must be analyzed through the lens of the proposed amended complaint. The court agrees that this approach is preferable and more efficient, particularly as plaintiff filed her motion for leave to amend well before defendants moved to dismiss the initial complaint. The court, then, will grant plaintiff's motion to amend as unopposed. Plaintiff is directed to file her amended complaint (attached to her motion) no later than Friday, June 4, 2010. Defendants' motion to dismiss and plaintiff's motion to strike are now moot.

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff's motion for leave to file an amended complaint (doc. 31) is granted and plaintiff shall file her amended complaint by June 4, 2010. Defendants' motion to dismiss (doc. 42) is moot and plaintiff's motion to strike (doc. 52) is moot.

IT IS SO ORDERED.

Dated this 26th day of May, 2010, at Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge