

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ROBERT KIMZEY,

Plaintiff,

vs.

Case No. 15-1369-JTM

DIVERSIFIED SERVICES, Inc., et al.

Defendants.

MEMORANDUM AND ORDER

Defendant Metal Finishing moved to dismiss this FMLA action because the original Petition filed in Sedgwick County District Court failed to identify any specific misconduct by Metal Finishing. The original Petition only identifies Metal Finishing as a corporation that can be served through a given agent. The remainder of the Petition discussed actions allegedly taken by defendants Dale Crouch and Diversified Services.

Kimzey filed no response to the motion to dismiss, but did file an Amended Complaint. (Dkt. 13). Kimzey later filed an unopposed motion for leave to amend his complaint to add a fourth defendant. This motion was granted, and the Second Amended Complaint then filed. (Dkt. 19).

In the amended complaints, Kimzey alleges that Metal Finishing and Diversified

“have common management, an interrelation between operations, centralized control of labor relations and a degree of common ownership/financial control” such that both defendants “are integrated employers of Plaintiff.” (Dkt. 13, ¶ 4). Metal Finishing’s Answer generally denies the allegation. (Dkt. 27, ¶ 4).

The court finds the earlier motion to dismiss (Dkt. 8) is moot in light of the current state of the case, and accordingly denies the same.

IT IS SO ORDERED this 15th day of April, 2016.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE