

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

JEOLONI DANIELS,

Plaintiff,

v.

CASE NO. 18-3187-SAC

DAN SCHNURR, et al.,

Defendants.

ORDER

This matter is before the Court on Plaintiff's filing titled "Amended Complaint Information" (ECF Doc. 11) filed on September 7, 2018. The filing makes allegations about possible new claims that are not included in Plaintiff's complaint.

To add these, or any, new claims, Plaintiff must file either an amended complaint or a supplemental pleading. Rule 15 provides that a party may amend its pleading once as a matter of course within 21 days after service of a responsive pleading or, if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or a dispositive motion. Fed. R. Civ. P. 15(a)(1). Defendants have not yet filed a responsive pleading or

dispositive motion. Therefore, leave of Court is not required for Plaintiff to file an amended complaint.¹

Rule 15 also provides that a court may allow a party to serve a supplemental pleading setting out any event that happened *after* the date of the pleading to be supplemented. Fed. R. Civ. P. 15(d). Plaintiff would need to file a motion requesting leave to file a supplemental pleading and should attach the proposed pleading to the motion.²

The Court has ordered a *Martinez* report in this case. The *Martinez* report shall continue to address the claims made in Plaintiff's complaint (ECF Doc. 1). As ECF Doc. 11 is not an amended complaint or a proper supplemental pleading, the *Martinez* report shall not be expanded to include allegations raised in that filing.

IT IS THEREFORE ORDERED the Court finds ECF Doc. 11 is not an amended complaint nor a proper supplemental pleading. Therefore, the *Martinez* report ordered by the Court (*see* ECF Doc. 7) shall not be expanded to include investigation into the allegations raised in that filing.

IT IS SO ORDERED.

Dated in Topeka, Kansas, on this 21st day of September, 2018.

s/ Sam A. Crow
SAM A. CROW
U. S. Senior District Judge

¹ The Court cautions Plaintiff that an amended complaint is not simply an addendum to the original complaint, and instead completely supersedes it. Therefore, any claims or allegations not included in the amended complaint are no longer before the court. It follows that Plaintiff may not simply refer to an earlier pleading, and the amended complaint must contain all allegations and claims that Plaintiff intends to pursue in this action, including those to be retained from the original complaint.

² If Plaintiff chooses to file an amended complaint or a motion requesting leave to supplement his complaint to add new claims, Plaintiff is reminded that he must have administratively exhausted any new claim before the Court could consider it. *See* 42 U.S.C. § 1997e(a).