

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

Aleigha Harris,

Plaintiff,

Case No. 20-2639-JWL

v.

Sleepcair, Inc.,

Defendant.

MEMORANDUM & ORDER

On January 13, 2021, the magistrate judge, pursuant to Federal Rule of Civil Procedure 72(b), recommended that plaintiff's motion to proceed without prepayment of fees (doc. 2) be denied based on plaintiff's failure to show a financial inability to pay the required filing fee. The magistrate judge noted plaintiff's current employment and the fact that plaintiff's monthly income exceeded her monthly expenses. Plaintiff has now filed an objection to the magistrate judge's recommendation (doc. 6).

When a specific objection is made to a report and recommendation, the court determines those issues de novo. *See* 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). But here, plaintiff has not set forth a specific objection to any particular portion of the report and recommendation. Rather, plaintiff essentially seeks reconsideration of that recommendation based on an assertion that her financial circumstances have changed since she filed her motion and her financial affidavit. Specifically, plaintiff asserts that she suffered a miscarriage in late

December, resulting in medical expenses and lost income; that she recently incurred a significant expense for car repairs; and that she intends to move into an apartment in March 2021 that will require a monthly rental payment. But while plaintiff asserts that she desires to supplement her financial affidavit to include those changed circumstances, she has not filed an amended affidavit or asserted these facts under oath.

Because plaintiff has not specifically objected to the recommendation, the objection is overruled and the motion to proceed without prepayment of fees is denied. Nonetheless, plaintiff, on or before February 26, 2021, may file a renewed motion to proceed without prepayment of fees and an amended financial affidavit reflecting her changed financial circumstances. At that point, the court will again refer the matter to the magistrate judge for a report and recommendation. If plaintiff elects not to file a renewed motion and amended financial affidavit, then she shall prepay the full filing fee of \$402 by February 26, 2021. Failure to either file a renewed motion or pay the filing fee by that time will result in the dismissal of this action without prejudice.

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff's objection to the magistrate judge's report and recommendation (doc. 6) is **overruled** and the motion to proceed without prepayment of fees (doc. 2) is **denied**.

IT IS FURTHER ORDERED BY THE COURT THAT plaintiff, **on or before February 26, 2021**, may file a renewed motion to proceed without prepayment of fees and an amended financial affidavit reflecting her changed financial circumstances. If plaintiff elects not to file a renewed motion and amended financial affidavit, **then she shall prepay the full filing**

fee of \$402 by February 26, 2021. Failure to either file a renewed motion or pay the filing fee by that time will result in the dismissal of this action without prejudice.

IT IS SO ORDERED.

Dated this 11th day of February, 2021, at Kansas City, Kansas.

s/ John W. Lungstrum _____

John W. Lungstrum

United States District Judge