

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WENDY ALLISON NORA,

Plaintiff,

v.

JUAN B. COLÁS,
DANE COUNTY CIRCUIT COURT,
CARLO ESQUEDA and
VICKI GILBERTSON,

Defendants.

ORDER

10-cv-709-bbc

On November 15, 2010, plaintiff Wendy Allison Nora filed this action in which she contends that defendants violated her rights under the Americans with Disabilities Act. On December 3, 2010, defendants Juan Colás and the Dane County Circuit Court filed a motion to dismiss on various grounds, dkt. #6; on December 8, defendants Carlo Esqueda and Vicki Gilbertson followed suit with their own motion to dismiss. Dkt. #9. On December 15, plaintiff filed a letter with the court in which she stated that “the briefing schedule for responding to the Motions to Dismiss are beyond my current medical capabilities.” Dkt. #13. She did not request a specific extension of time, but stated, “[h]opefully, I will be able

to write to you with a definite time frame for all parties to discuss settlement without having to write briefs.” In an order dated December 17, 2010, Magistrate Judge Stephen Crocker extended plaintiff’s deadline for responding to the motions to January 31, 2011. The same day, plaintiff filed an amended complaint, as she was entitled to do under Fed. R. Civ. P. 15(a)(1)(B).

Plaintiff’s amended complaint moots the pending motions to dismiss. Massey v. Helman, 196 F.3d 727, 735 (7th Cir.1999) (“[W]hen a plaintiff files an amended complaint, the new complaint supersedes all previous complaints and controls the case from that point forward.”). Defendant Colás and the Dane County Circuit Court seem to recognize this because they have filed a new motion to dismiss the amended complaint. Dkt. #18. If the remaining two defendants wish to renew their motion as well, they should do so promptly. Because the magistrate judge extended plaintiff’s deadline to respond by more than a month, there is no need to change the briefing schedule at this time.

ORDER

IT IS ORDERED that

1. The motions to dismiss filed by defendants Juan Colás and the Dane County Circuit Court, dkt. #6, and defendants Carlo Esqueda and Vicki Gilbertson, dkt. #9, are DENIED as moot.

2. Defendants Carlo Esqueda and Vicki Gilbertson may have until December 30, 2010 to file a renewed motion to dismiss.

3. The briefing schedule set by the magistrate judge in the December 17 order, dkt. #14, remains in place.

Entered this 22d of December, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge