

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

SABRA GALVAN,)
)
 Plaintiff,)
)
 v.) 1:15-cv-00283-JAW
)
 SUSANNE LEVASSEUR,)
)
 Defendant.)

ORDER ON MOTION TO EXTEND TIME TO AMEND COMPLAINT

On July 20, 2015, Sabra Galvan, acting pro se, filed a complaint against Susanne LeVasseur¹, alleging that Ms. LeVasseur engaged in multiple violations of law and claiming this Court’s jurisdiction for “Violation of Civil Rights” and “Discrimination of the ADA [Americans with Disabilities Act].” *Compl.* at 1-4 (ECF No. 1). On October 27, 2015, Susanne LeVasseur filed a motion to dismiss the complaint. *Def. Susanne LeVasseur’s Mot. to Dismiss Pursuant to Fed. R. Civ. P. 12(b)* (ECF No. 10). On November 12, 2015, Ms. Galvan responded to the motion to dismiss.² *Pl. Sabra Galvan’s Resp. to Def. Susanne LeVasseur’s Mot. to Dismiss, and Moves Not to Dismiss Due to the Fact that the Cl. Arises Under the Constitutional*

¹ The Complaint spells Ms. LeVasseur’s last name LeVassuer. *Compl.* at 1-4. Ms. LeVasseur’s filings spell her name the more traditional way, LeVasseur. On the assumption that Ms. LeVasseur knows how to spell her name, the Court has adopted her spelling and has sua sponte amended Ms. Galvan’s Complaint to reflect the correct spelling.

² On November 12, 2015, Ms. Galvan moved for leave to file a memorandum of more than twenty pages. *Mot. to Leave More than 20 Pages* (ECF No. 11). On November 13, 2015, Ms. LeVasseur objected to the motion for leave. *Def.’s Opp’n to Pl.’s “Mot. to Leave More than 20 Pages”* (ECF No. 13). On December 31, 2015, the Magistrate Judge granted Ms. Galvan’s motion over Ms. LeVasseur’s objection. *Order Granting Mot. for Leave to File* (ECF No. 17).

Laws of the United States, and Civil Rights Act, and the ADA [Americans with Disabilities Act], Also Due to the Fact that the Def. Lives Out of State This is a Diversity Case (ECF No. 12). On November 13, 2015, Ms. LeVasseur replied to Ms. Galvan's response. *Def. Susanne LeVasseur's Reply Mem. in Support of her Rule 12(b) Mot. to Dismiss* (ECF No. 14).

On December 17, 2015, the Magistrate Judge issued a recommended decision in which he recommended that the Court grant the motion the motion dismiss "unless within the deadline for filing an objection to this Recommended Decision, Plaintiff amends her complaint to state a plausible federal claim." *Recommended Decision on Mot. to Dismiss* (ECF No. 16). Objections to the Recommended Decision were due on January 4, 2016. On December 31, 2015, Ms. Galvan filed a motion to extend time to respond to the Recommended Decision, requesting thirty days from the original due date. *Mot. for More Time to Resp. to the R&R Rule, and to present a Plausible Fed. Cl.* (ECF No. 18). On January 2, 2016, the Magistrate Judge granted in part the motion for extension of time and set January 22, 2016 as the new due date. *Order Granting in Part Mot. to Extend Time to File Obj. to Recommended Decision and to state Plausible Fed. Cl.* (ECF No. 19).

On January 22, 2016, the Plaintiff filed a second motion to extend time. *Mot. for More Time to Am. my Compl. to State a Plausible Fed. Cl.* (ECF No. 22). On February 1, 2016, Ms. Galvan filed an Amended Complaint. *Am. Civil Action Compl. Lawsuit Plausible Fed. Cl.* (ECF No. 23). On February 9, 2016, Ms. LeVasseur

objected to Ms. Galvan's motion for more time to amend her complaint. *Def.'s Opp'n to Pl.'s "Mots." for More Time to Am. Compl.* (ECF No. 24).

The Plaintiff is representing herself in this lawsuit. The First Circuit has written that "as a general rule, we are solicitous of the obstacles that pro se litigants face, and while such litigants are not exempt from procedural rules, we hold pro se pleadings to less demanding standards than those drafted by lawyers and endeavor, within reasonable limits, to guard against the loss of pro se claims due to technical defects." *Dutil v. Murphy*, 550 F.3d 154, 158-59 (1st Cir. 2008); *see also Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (pro se complaints are to be "liberally construed"). Even so, "pro se status does not insulate a party from complying with procedural and substantive law." *Ahmed v. Rosenblatt*, 118 F.3d 886, 890 (1st Cir. 1997).

Here, the Magistrate Judge expressly allowed Ms. Galvan to attempt to amend her complaint to state a plausible claim by January 22, 2016 and, within that period, Ms. Galvan requested an extension of time. Before the Court acted on her motion for extension of time, Ms. Galvan filed a proposed amended complaint on February 1, 2016. In view of the fact that Ms. Galvan has filed an amended complaint in an attempt to comply with the Court's Recommended Decision, the Court grants Sabra Galvan's motion to extend time and overrules Susanne LeVasseur's objection to Ms. Galvan's motion for more time. To refuse to accept Ms. Galvan's amended complaint in these circumstances, where the amended complaint has already been filed, would be hyper-technical at best.

As the Court sees it, if Ms. LeVasseur concludes that Ms. Galvan has complied with the Magistrate Judge's Recommended Decision and her amended complaint now states a plausible federal claim, Ms. LeVasseur need do nothing further, except answer the amended complaint. If Ms. LeVasseur concludes that the amended complaint fails to comply with the Magistrate Judge's Recommended Decision because it still fails to state a plausible federal claim, she is free to file another motion to dismiss based on the allegations in the amended complaint.

The Court GRANTS Sabra Galvan's Motion for More Time to Amend my Complaint to State a Plausible Federal Claim (ECF No. 22) and allows Ms. Galvan through February 1, 2016 to file an amended complaint; the Court OVERRULES Defendant's Opposition to Plaintiff's "Motions" for More Time to Amend Complaint (ECF No. 24).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 9th day of March, 2016