

NOV 08 2018

JAMES N. HATTEN, Clerk
 Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

NATHANIEL BORRELL DYER,

Plaintiff,

v.

ATLANTA INDEPENDENT SCHOOL
SYSTEM,

Defendant.

:
:
:
:
:
: CIVIL ACTION FILE

: NO. 1:18-CV-03284-~~CAP~~ TCB

**PLAINTIFF'S NOTICE OF WITHDRAWAL OF
MOTION FOR LEAVE TO FILE SURREPLY**

TO THE COURT AND DEFENDANTS AND THEIR COUNSEL:

PLEASE TAKE NOTICE that Plaintiff hereby withdraws his Motion for Leave to File Surreply (Doc. 15) without prejudice to other motions in the future. Plaintiff has determined that a withdrawal of this motion and the submission of an amended response would better serve the interest of this legal process and furtherance of justice.

Respectfully submitted this 7th day of November, 2018.

Nathaniel Borrell Dyer
Plaintiff Pro Se

CERTIFICATE OF COMPLIANCE

I certify that the foregoing was prepared using Times New Roman font, 14-point type, which is one of the font and print selections approved by the Court in L.R.5.1(B).

This 7th day of November, 2018.

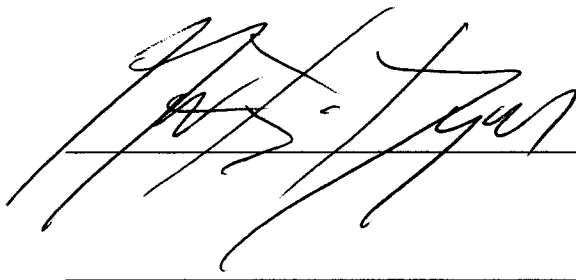
Nathaniel Borrell Dyer
Plaintiff Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2018, a copy of the document entitled **PLAINTIFF'S NOTICE OF WITHDRAWAL FOR MOTION FOR LEAVE TO FILE SURREPLY** was delivered by first class mail to:

Nelson Mullins Riley & Scarborough LLP
Atlantic Station / 201 17th Street, NW / Suite 1700
Atlanta, GA 30363

Nathaniel Borrell Dyer
Plaintiff Pro Se



A handwritten signature in black ink, appearing to read 'Nathaniel Dyer', is written over a horizontal line. A second horizontal line is positioned below the first line.

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

NOV 08 2018

JAMES N. HATTEN, Clerk
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NATHANIEL BORRELL DYER, :

Plaintiff, :

v. :

ATLANTA INDEPENDENT SCHOOL
SYSTEM, :

Defendant. :

CIVIL ACTION FILE
NO. 1:18-CV-03284-CAP TCB

**PLAINTIFF'S MOTION FOR LEAVE TO FILE
AMENDED RESPONSE**

Plaintiff respectfully moves for leave to submit the attached amendment in response to arguments and citations to authority made by the Defendant in Defendant's Reply in Support of Motion to Dismiss for Failure to State a Claim (dated August 29, 2018), Defendant's Motion to Disregard Plaintiff's Surreply (dated September 21, 2018), and Defendant's Response to Plaintiff's Motion for Leave to File Surreply (dated October 29, 2018).

Defendant's Reply in Support of Motion to Dismiss for Failure to State a Claim states, "Local Rule 7.1(D) states that "[a]bsent prior permission of the

court, briefs filed in support of a motion or in response to a motion are limited to twenty-five (25), pages.” Plaintiffs Response to Defendant’s Motion to Dismiss spans thirty-four (34) pages. (Doc. 8 at 1-34). Defendant respectfully requests that this Court either disregard any argument made after the twenty-fifth page of Plaintiffs response or require Plaintiff to file an amended response that complies with the Local Rules.” Plaintiff has attached an amended response that complies with the Local Rules.

Defendant’s Motion to Disregard Plaintiff’s Surreply states, “Plaintiff never asked this court for permission before filing his surreply. And he has not presented a compelling reason to justify a surreply.” Plaintiff acknowledged this error and submitted Plaintiff’s Motion for Leave to File Surreply (15 October 2018) with justification of complying with Local Rule 7.1(D).

Defendant’s Response to Plaintiff’s Motion for Leave to File Surreply cites, “This court may, in its discretion, permit a party to file a surreply. *Federick v Mercedes-Benz USA, LLC*, 366 F. Supp. 2d 1190, 1197 (N.D. Ga. 2005)” Plaintiff clearly was within his rights to submit his motion for leave to file surreply as permission is granted by the Court, not the Defendant. However, Plaintiff has determined that a withdrawal of his motion for leave to file surreply (submitted November 7, 2018) and the submission of an amended response would better serve the interest of this legal process and furtherance of justice.

Federal Rule of Civil Procedure 15(a) contemplates that a court will freely grant leave to file an amended complaint when the interests of justice so require. Granting this motion will allow Plaintiff to appropriately respond to Defendant in accordance with Local Rule 7.1(D).

For the above reasons, Plaintiff respectfully requests leave to file the attached amended response.

Respectfully submitted this 7th day of November, 2018.

Nathaniel Borrell Dyer
Plaintiff Pro Se

CERTIFICATE OF COMPLIANCE

I certify that the foregoing was prepared using Times New Roman font, 14-point type, which is one of the font and print selections approved by the Court in L.R.5.1(B).

This 7th day of November, 2018.

Nathaniel Borrell Dyer
Plaintiff Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2018, a copy of the document entitled **PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED RESPONSE** was delivered by first class mail to:

Nelson Mullins Riley & Scarborough LLP
Atlantic Station / 201 17th Street, NW / Suite 1700
Atlanta, GA 30363

Nathaniel Borrell Dyer
Plaintiff Pro Se

