

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RICHARD STANLEY, JR.)
and TIM CLARK,)
)
Plaintiffs,)
)
vs.)
)
BROWN COUNTY ELECTION)
BOARD,)
)
Defendant.)

CAUSE NO. 1:25-cv-01482-TWP-MKK

**DEFENDANT’S RESPONSE IN OPPOSITION TO PLAINTIFF’S MOTION TO AMEND
COMPLAINT**

Defendant Brown County Election Board, by counsel, files Response in Opposition to Plaintiff’s Motion to Amend Complaint and states:

Plaintiffs seek to amend their initial Complaint filed on July 25, 2025 as evidenced by their filing a Motion for Leave to File a Supplemental Response on October 21, 2025. Because the pleading was inconsistent with the Local Rules (specifically Local Rule 15-1(a)), the Court directed the Plaintiffs to properly “file an Amended Motion for Leave to File Supplemental Response and attach the Amended or Supplemental pleading for the Court’s consideration as required by Local Rule 15-1.” (Document #21). The Court also ordered the Defendant to respond “within 14 days” after the proper Motion and Amended Complaint are filed.” On October 23, 2025, Plaintiffs filed their Motion to *Amend Complaint* outlining a new legal theory regarding the underlying facts of their original Complaint along with an attached document entitled “Amended Complaint” which appears to be the original Complaint that was filed on July 25, 2025, with no changes or amendments made to it. (Document #22).

Under Rule 15(a)(1), Plaintiff may only amend his pleading “once as a matter of course within: “(A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is

required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b),(e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(A)-(B). Because the Defendant filed its Motion to Dismiss on August 13, 2025, Plaintiffs may only amend with the “written consent of the Defendant or with the court’s leave” or permission. *Id.* 15(a)(2). Absent a substantial reason to deny leave, the court should freely grant a leave to amend “when justice so requires.” *Id.* “Of course, the grant or denial of an opportunity to amend is within the discretion of the District Court.” *Foman v. Davis*, 371 U.S. 178, 182 (1962).

In this case, the Plaintiffs failed to properly file the Amended Motion for Leave with the proposed Amended Complaint as directed by the Court. A request to amend should be made by motion pursuant to Federal Rule of Civil Procedure 15, with the proposed amendment attached. See *State Trading Corp. of India Ltd. V. Assuranceforeningen Skuld*, 921 F.2d 409, 418 (2nd Cir. 1990) (affirming district court’s denial of leave to amend, imputing a “lack of diligence and good faith” to plaintiff in part because plaintiff “did not file a proposed amended complaint” when it sought leave to amend); A district court may deny leave to file an amended complaint in the case of “undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [and] futility of amendment.” *Airborn Beepers & Video, Inc. v. AT & T Mobility LLC*, 499 F.3d 663, 666 (7th Cir.2007), quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962).

The Defendant opposes Plaintiff’s Motion to Amend and asks the Court to deny the Motion. The Plaintiffs seek to amend their original complaint only after the Defendant filed its Motion to Dismiss (outlining the deficiencies in the case) and after the Court issued its Case Management Plan. The Plaintiffs now seek to change their legal theory regarding their case to fit a timeline favorable to their narrative. The Plaintiffs were given an opportunity to correct their pleadings and still failed to correctly file what is required by Local Rule and as outlined by the Court. The undue delay causes Defendant to spend more time and energy on a case in which it has done nothing to injure the Plaintiffs. The Defendant has taken zero steps regarding the Plaintiffs running for office in the future. Amending their complaint now only continues to prolong this matter, of which, the Defendant shouldn’t be involved.

WHEREFORE, Defendant respectfully requests the Court deny the Motion to Amend and Motion for Leave to File Supplemental Response.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the forgoing Response in Opposition to Plaintiff's Motion to Amend was filed electronically on November 6, 2025. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system.

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