

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

CHRISTINA BERGSTROM,

Plaintiff,

v.

CORIZON, L.L.C., a Missouri
Corporation, STACIE DYE, AMY
SMITH, AMANDA GENTRY, Warden
Pocatello Women's Correctional Center,
and JOHN/ JANE DOES 1-10, Identities
that are Unknown at this time,

Defendants.

Case No. Case 1:20-cv-00267-CWD

ORDER

Before the Court is the motion to dismiss the complaint filed by Corizon LLC, Stacie Dye, and Amy Smith ("Corizon Defendants"). The Complaint in this matter was filed on June 5, 2020. Corizon Defendants filed the motion on September 2, 2020. The motion seeks dismissal pursuant to Fed. R. Civ. P. 12(b)(6), claiming the complaint does not provide fair notice of the grounds for the claims made against the Corizon Defendants, and therefore runs afoul of *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), and

Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007). Plaintiff responded to the motion by filing an amended complaint on September 23, 2020. (Dkt. 19.)¹

Pursuant to Fed. R. Civ. P. 15(a)(1)(B), a party may amend her pleading as a matter of course within twenty-one days after service of a motion under Rule 12(b). Plaintiff's amended complaint was timely filed pursuant to Fed. R. Civ. P. 15(a)(1)(B). Accordingly, the operative complaint in this matter is the First Amended Complaint. The Corizon Defendants' motion is therefore moot.²

By operation of Fed. R. Civ. P. 15(a)(3), a response to an amended pleading must be made within fourteen days after service, which in this case was October 7, 2020. Corizon Defendants did not file an answer or otherwise respond to the amended complaint. Instead, the parties timely filed a stipulation requesting fourteen days from the Court's ruling on the motion to dismiss within which to respond to the amended complaint, and Corizon Defendants indicated that a reply brief would be filed to their motion to dismiss the initial complaint. (Dkt. 24.) The stipulation, being timely filed, will be granted. Corizon Defendants' response to the Amended Complaint, which is the operative pleading pursuant to Fed. R. Civ. P. 15(a)(1)(B), is due within fourteen (14) days of this Order.³

¹ Plaintiff filed also a response to the motion to dismiss, (Dkt. 21), and a redlined version of the Amended Complaint, (Dkt. 25).

² Defendant Amanda Gentry filed a motion to dismiss on October 5, 2020, which seeks dismissal of Plaintiff's amended complaint. (Dkt. 22.)

³ This case was randomly assigned to the undersigned Magistrate Judge, who may issue dispositive orders upon all parties' consent. 28 U.S.C. § 636(c)(1). Although not all parties have consented to the undersigned's jurisdiction to hear and dispose of all matters, this order does not dispose of any parties' claims or defenses. 28 U.S.C. § 636(b)(1)(A).

ORDER

NOW THEREFORE IT IS HEREBY ORDERED:

- 1) Defendants' Motion to Dismiss (Dkt. 13) is **DENIED as MOOT**.
- 2) The Stipulation (Dkt. 24) is **APPROVED**. Corizon Defendants have up through and including October 22, 2020, within which to respond to the Amended Complaint.



DATED: October 8, 2020

A handwritten signature in black ink, appearing to read "C. Dale", is written over a horizontal line.

Honorable Candy W. Dale
United States Magistrate Judge