

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

GRACE MAKAU,)
)
 Plaintiff,)
)
 v.) 1:16CV1346
)
 LOUISE MEYER, et al.,)
)
 Defendants.)

ORDER

This case is before the court on the court's own motion in light of the amended complaint filed by Plaintiff on October 26, 2018. (Doc. 31.) The amended complaint is 158 pages long and contains a thirty-two-page attachment. Plaintiff also has filed a 139-page declaration (Doc. 32) and a motion for preliminary injunction. (Doc. 33.)

The court previously dismissed this action with prejudice on February 1, 2017, based on the Recommendation of the United States Magistrate Judge. (Docs. 18, 19.) Plaintiff filed an appeal with the United States Court of Appeals for the Fourth Circuit, which affirmed the dismissal on June 22, 2017. (Docs. 24, 25, 26.) Plaintiff sought review by the United States Supreme Court, which denied the petition for writ of certiorari on November 27, 2017. (Doc. 30.)

On October 26, 2018, Plaintiff filed what she has now styled as her "Amended Complaint," as noted above, which attempts to re-

litigate the issues previously part of her original 159-page complaint. There is no pending action, because Plaintiff's original complaint has been dismissed with prejudice and Plaintiff's appeals have all been exhausted. Thus, there is no complaint to which Plaintiff can seek to amend. Plaintiff has not demonstrated any reason under Rule 60(b) of the Federal Rules of Civil Procedure that would entitle her to relief from the final judgment in her case. Therefore, her filings are a nullity and shall be struck. Nothing herein prevents Plaintiff from filing any new action that meets the standards for filing; however, she is cautioned that she cannot attempt to re-litigate in that action issues that were raised and litigated in the original complaint in this case which was dismissed with prejudice.

While the court takes Plaintiff's non-lawyer status into consideration, she is cautioned that she must still abide by the legal standards, rules of procedure, and deadlines applicable to all litigants. See Alston v. Becton, Dickinson & Co., No. 1:12cv452, 2014 WL 338804, at *3 (M.D.N.C. Jan. 30, 2014). This includes Rule 11 of the Federal Rules of Civil Procedure, which provides that those who sign and file materials with the court are, by doing so, representing that "the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing

existing law or for establishing new law," and that "the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery." Fed. R. Civ. P. 11(b). A violation of Rule 11 is subject to sanctions, and "pro se litigants are subject to any and all appropriate sanctions for their misconduct." Zaczek v. Fauquier Cty., Va., 764 F. Supp. 1071, 1077 (E.D. Va. 1991). This includes pro se litigants who file frivolous or repetitive lawsuits. See id. at 1077 n.21. Therefore, Plaintiff is cautioned that she cannot seek to re-file the complaint that the court dismissed with prejudice, looking for a second bite at the apple.

Plaintiff is warned that she must read and comply with all these rules. She is expressly warned that if she files further frivolous motions or materials, the court will entertain motions for monetary and other sanctions against her. The court strongly urges Plaintiff to consult legal counsel to avoid further violation of the rules of this court.

IT IS THEREFORE ORDERED that the amended complaint (Doc. 31) and declaration (Doc. 32) shall be STRUCK, and the motion for preliminary injunction (Doc. 33) shall be DENIED AS MOOT. This action is CLOSED.

/s/ Thomas D. Schroeder
United States District Judge

November 13, 2018