



IT IS ORDERED as set forth below:

Date: September 3, 2015

Mary Grace Diehl

Mary Grace Diehl
U.S. Bankruptcy Court Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:	:	BANKRUPTCY CASE NO:
	:	
LAURA GAIL SWEENEY,	:	14-70301-MGD
	:	
Debtor.	:	CHAPTER 7
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LAURA GAIL SWEENEY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	ADVERSARY PROCEEDING NO:
	:	
FEDERAL STUDENT LOANS HELD BY FED LOAN SERVICING CREDIT,	:	15-5059
	:	
Defendant.	:	
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**ORDER GRANTING PLAINTIFF’S MOTION FOR LEAVE
TO FILE AMENDED COMPLAINT**

Before the Court is Plaintiff Laura Gail Sweeney’s Motion for Leave to File Amended Complaint (Doc. 9) (the “Motion”). The proposed Amended Complaint drops as defendant Federal Student Loans Held By Fed Loan Servicing Credit and adds as defendant the United

States Department of Education. The Motion was filed on August 7, 2015 and served on all parties under Federal Rules of Bankruptcy Procedure 7004(b)(4), (5) and 7005(b)(1). No response was filed by any party within 14 days of service of the Motion (August 24, 2015, including 3 days for mail), indicating no opposition to the Motion. BLR 7007-1(c), N.D. Ga.

Defendant filed its Answer on February 9, 2015. No Rule 26(f) report was filed by either party, accordingly the case deadlines are governed by Local Rule 7016-1. BLR 7016-1(b), N.D. Ga. Under that rule, motions to join other parties or to amend the pleadings were due on April 1, 2015. However, in light of the fact that Counsel for Plaintiff did not enter an appearance until March 27, 2015 and the fact that Defendant has offered no opposition to the Motion, good cause exists to modify the BLR 7016-1 schedule. Further, it appears the parties are in agreement that Plaintiff does not hold a claim against Defendant Federal Student Loans Held By Fed Loan Servicing Credit, that it was consequently misjoined as a party, and that the United States Department of Education is the party whose joinder is needed for just determination under Federal Rule of Bankruptcy Procedure 7019. Under Federal Rule of Bankruptcy Procedure 7021, the proper remedy for misjoinder is not dismissal, but rather dropping of the misjoined party and adding of the nonjoined party. Accordingly, it is

ORDERED that the Motion is **GRANTED**.

It is **FURTHER ORDERED** that Defendant Federal Student Loans Held By Fed Loan Servicing Credit is **DROPPED** as a party and Defendant United States Department of Education is **ADDED** as a party. The Clerk is **DIRECTED** to update the docket to reflect this change of parties.

It is **FURTHER ORDERED** that Plaintiff shall file her Amended Complaint on or before **September 15, 2015**. Upon the filing of the Amended Complaint as directed above, Plaintiff is **DIRECTED** to request the issuance of an alias summons as to the United States Department of Education and serve same along with the Amended Complaint on or before **September 29, 2015**.

It is **FURTHER ORDERED** all deadlines in BLR 7016-1(b) are stayed until the appearance by answer or motion of the United States Department of Education, at which point the provisions of that Local Rule shall apply as of the date of such appearance.

The Clerk is directed to serve a copy of this Order on the attached distribution list.

END OF DOCUMENT

Distribution list:

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