

Simon v. GM Fin.

United States District Court for the Northern District of Texas, Dallas Division

September 19, 2025, Decided; September 19, 2025, Filed

No. 3:25-cv-2446-S-BN

Reporter

2025 U.S. Dist. LEXIS 184265 *; 2025 LX 415376

RECORDA ANN SIMON, Plaintiff, v. GM FINANCIAL,
ET AL., Defendants.

Counsel: [*1] Recorda Ann Simon, Plaintiff, Pro se.

For GM Financial more properly identified as
AmeriCredit Financial Services, Inc. d/b/a GM Financial,
Defendant: Aimee Guidry Szygenda, Gregg D Stevens,
LEAD ATTORNEYS, Hinshaw & Culbertson LLP,
Dallas, TX.

Judges: DAVID L. HORAN, UNITED STATES
MAGISTRATE JUDGE.

Opinion by: DAVID L. HORAN

Opinion

MEMORANDUM OPINION AND ORDER GRANTING CONSTRUED MOTION FOR LEAVE TO AMEND COMPLAINT

Asserting claims under several federal statutes, including the Fair Credit Reporting Act and the Fair Debt Collection Practices Act, *pro se* Plaintiff Recorda Ann Simon filed this lawsuit in a Dallas County, Texas state court, and Defendant AmeriCredit Financial Services, Inc. d/b/a GM Financial ("GMF") answered in state court and removed under the Court's federal-question subject-matter jurisdiction prior to service on other named defendants. See Dkt. No. 1.

The presiding United States district judge referred the removed lawsuit to the undersigned United States magistrate judge for pretrial management under [28 U.S.C. § 636\(b\)](#) and a standing order of reference.

And, after the Court entered standing orders and an order for the parties to meet and confer and then file a joint status report under Federal Rules of Civil Procedure 16(b) and 26(f), see Dkt. Nos. 5-8, Simon [*2] filed an amended complaint, see Dkt. No.

10.

[Federal Rule of Civil Procedure 15](#) "gives plaintiffs a temporary right to amend their complaints," and, even after that right expires, Rule 15 "requires courts 'freely give leave [to amend] when justice so requires.'" [Carver v. Atwood](#), 18 F.4th 494, 498 (5th Cir. 2021) (citing [Fed. R. Civ. P. 15\(a\)\(1\)](#)), then quoting [Fed. R. Civ. P. 15\(a\)\(2\)](#).

But a plaintiff may amend her complaint only "once as a matter of course," [Fed. R. Civ. P. 15\(a\)\(1\)](#). And "[o]nce means once." [Logue v. Patient First Corp.](#), 246 F. Supp. 3d 1124, 1127 (D. Md. 2017).

And, because "[a] case removed from state court simply comes into the federal system in the same condition in which it left the state system," [Matter of Meyerland Co.](#), 960 F.2d 512, 520 (5th Cir. 1992) (citing [Granny Goose Foods, Inc. v. Bhd. of Teamsters, Etc.](#), 415 U.S. 423, 435-36 (1974)), the Court notes that Simon amended her complaint (then the state court petition) prior to removal, see, e.g., Dkt. No. 1-1 at 4-6 (state court docket).

Regardless, "where defendants challenge the pleadings on the merits after a case has been removed to federal court, plaintiffs should be permitted leave to amend their complaint in order to conform to the federal pleading standard." [Plamquist v. Hain Celestial Grp., Inc.](#), 103 F.4th 294, 302 (5th Cir. 2024) (characterizing a holding of [Peña v. City of Rio Grande City](#), 879 F.3d 613, 617 (5th Cir. 2018)); see, e.g., Dkt. No. 1-1 at 132 (GMF asserting as an affirmative defense that Simon "has failed to state a claim upon which relief may be granted").

And that "logic makes good sense: a plaintiff should not be penalized for adhering to the pleading standards of the jurisdiction in [*3] which the case was originally brought. Otherwise, where there are potentially diverse parties, plaintiffs would essentially have to plead the federal pleading standard in state court for fear of having their claims against non-diverse parties thrown

out upon reaching federal courts for failing to comply with the demands of [Federal Rule of Civil Procedure] 12(b)(6)." [Plamquist, 103 F.4th at 303](#) (citing [Peña, 879 F.3d at 617](#) ("Removal from a notice-pleading jurisdiction is a natural time at which justice would call for the court to permit such an amendment." (citing [Faulkner v. ADT Sec. Servs., Inc., 706 F.3d 1017, 1021 \(9th Cir. 2013\)](#)))).

And, so, considering Simon's *pro se* status, the Court construes the amended complaint filed after removal to incorporate a motion for leave to amend under [Federal Rule of Civil Procedure 15\(a\)\(2\)](#). And the Court GRANTS the construed motion for leave and elects not to strike and unfile the pleading.

SO ORDERED.

DATED: September 19, 2025

/s/ David L. Horan

DAVID L. HORAN

UNITED STATES MAGISTRATE JUDGE