

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE
ISLAND

Arnold A. Noel v. Brian Coutcher, et al.

Noel · No. 1:23-cv-00028-SJM-TLSM · Decided January 22, 2026

SUMMARY

This Report and Recommendation addresses the plaintiff’s motion to compel issuance of summonses and confirm that a Third Amended Complaint was the operative pleading. The magistrate judge recommends denying the motion and striking the Third Amended Complaint because it was filed without a motion to amend, contrary to the District of Rhode Island’s local rules and Federal Rule of Civil Procedure 15.

CASE DETAILS

COURT	United States District Court for the District of Rhode Island
WRITING FOR THE COURT	Talesha L. Saint-Marc
JURISDICTION	United States District Court for the District of Rhode Island
DECIDED	January 22, 2026
DOCKET	1:23-cv-00028-SJM-TLSM
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on plaintiff's motion to compel issuance of summonses for a Third Amended Complaint and to confirm that pleading as the operative complaint.
STANDARD OF REVIEW	Issues preserved by timely objections to a magistrate judge's report and recommendation are subject to review by the district court; issues not raised in objections are waived or precluded from appellate review.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- motion to amend
- pleadings
- service of process
- civil procedure

PRACTICE AREAS

- civil procedure
- pleading amendments

QUESTIONS PRESENTED

1. Whether the court should compel issuance of summonses for a Third Amended Complaint filed without a motion to amend.
2. Whether the Third Amended Complaint was effective when filed without compliance with District of Rhode Island Local Rule Cv 15 and Federal Rule of Civil Procedure 15.
3. Whether the court should recognize the Third Amended Complaint as the sole operative pleading.

HOLDINGS

1. The magistrate judge recommended denying the motion to compel issuance of summonses because Noel filed the Third Amended Complaint without complying with the applicable amendment procedures.
2. The magistrate judge recommended finding the Third Amended Complaint ineffective because Noel's time to amend as a matter of course had expired and he obtained neither opposing-party consent nor leave of court.
3. The magistrate judge recommended denying Noel's request to confirm the Third Amended Complaint as the sole operative pleading and recommended striking it from the record.

KEY QUOTATIONS

“Once a party has exhausted its one-time right to amend as a matter of course, it may make further amendments only with the opposing party’s consent or with leave of court.” (Discussion)

“Accordingly, for the foregoing reasons, the district judge should deny Noel’s “Verified Motion to Compel Issuance of Summons Forthwith and to Confirm Operative Status of Amended Complaint.”” (Conclusion)

FACTUAL BACKGROUND

Noel sued his former employer and affiliated entities and individuals for alleged fraud, discrimination, misappropriation of intellectual property, reputational harm, and retaliation. He filed a Third Amended Complaint adding new claims and more than eighty defendants without an accompanying motion to amend, an explanation of the proposed changes, or leave of court. He then moved to compel issuance of summonses and to establish the Third Amended Complaint as the sole operative pleading.

PROCEDURAL HISTORY

Noel filed a Third Amended Complaint without filing a motion to amend. After the court issued an order to show cause concerning dismissal for failure to prosecute, Noel failed to respond and instead filed the Third Amended Complaint, asserting new claims against more than eighty entities and individuals. A magistrate judge previously recommended dismissal with prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 41. The magistrate judge now recommended denying Noel's motion to compel issuance of summonses and striking the Third Amended Complaint.

DISPOSITION

CASES CITED

- United States ex rel. D’Agostino v. EV3, Inc., 802 F.3d 188, 192 (1st Cir. 2015)
- Santos-Santos v. Torres-Centeno, 842 F.3d 163, 168 (1st Cir. 2016)
- Sch. Union No. 37 v. United Nat’l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010)
- Keating v. Sec’y of Health & Hum. Servs., 848 F.2d 271, 275 (1st Cir. 1988)

OPINION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND ARNOLD A. NOEL v. Civil No. 1:23-cv-00028-SJM-TLSM BRIAN COUTCHER, ET AL. REPORT AND RECOMMENDATION REGARDING PLAINTIFF’S MOTION TO COMPEL ISSUANCE OF SUMMONS Self-represented Plaintiff, Arnold A. Noel (“Noel”), brings this action against his former employer and a number of affiliated entities and individuals seeking damages for the financial and emotional injuries he claims he suffered as a result of “Defendants’ concerted efforts to defraud, discriminate against, and unjustly enrich themselves” by misappropriating his intellectual property, maligning his professional reputation, and engaging in “a series of deceitful, discriminatory, and retaliatory actions” against him.

Doc. No. 16 at ¶ 2. On December 9, 2025, this court issued an Order to Show Cause (Doc. No. 99) directing Noel to show cause, by December 23, 2025, as to why this case should not be dismissed for failure to prosecute. Noel failed to respond to the Show Cause Order.¹ Instead, on December 24, 2025, he filed a Third Amended Complaint (Doc. No. 100), without an accompanying motion to amend, in which he seeks to assert new claims, unrelated to the existing claims in this case, against more than eighty entities and individuals, including various attorneys and law firms, state agencies and officials, state and federal court judges, and employees from the United States Marshals’ Service.

¹ On January 21, 2026, the undersigned magistrate judge issued a Report and Recommendation (Doc. No. 104) recommending that the district judge dismiss this case with prejudice, pursuant to Fed. R. Civ. P. 41(b) and Local Rule 41, for failure to prosecute. Currently before the court is Noel’s “Verified Motion to Compel Issuance of Summons Forthwith and to Confirm Operative Status of Amended Complaint” (Doc.

No. 102), to which Defendants² object (Doc. No. 103). In his Motion, Noel asserts that his Third Amended Complaint (Doc. No. 100) is the “sole operative pleading in this action,” and thus, he requests that the court order the Clerk to issue summonses to him. Doc. No. 102 at pgs. 3-4.

For the reasons that follow, the district judge should deny Noel’s Motion and strike the Third Amended Complaint from the record. DISCUSSION Defendants contend that the court should

deny Noel's Motion to compel issuance of his Third Amended Complaint because the Third Amended Complaint does not comply with the Local Rules for the District of Rhode Island. Doc.

No. 103-1 at pg.1. Local Rule Cv 15 provides: A motion to amend a pleading shall be filed in accordance with LR Cv 7, explain how the amended pleading differs from the original and why the amendment is necessary, and be accompanied by a complete and signed copy of the proposed amended pleading. If the motion to amend is granted, the Clerk shall file the proposed amended pleading.

Here, Noel did not file a motion to amend, nor did he explain how the proposed amended pleading differs from the operative Complaint (Doc. No. 16). Instead, he simply filed the Third Amended Complaint. Because Noel's Third Amended Complaint does not comply with DRI LR Cv 15, Noel's Motion to compel the issuance of summonses for the same should be denied.

The district judge should deny Noel's Motion for the additional independent reason that his failure to comply with Federal Rule of Civil Procedure 15 renders his Third Amended 2 The following Defendants filed a joint objection: Stephen M. Russell, Izabela Russell, Marc Thebaud, UBH Solar, Derek Moore, and Brian Croutcher. Doc. No. 103. Complaint ineffective.

Therefore, Noel is not entitled to the issuance of summonses or a ruling that the Third Amended Complaint is the operative pleading in this case. Pursuant to Fed. R. Civ. P. 15, "[a] party may amend its 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). "Once a party has exhausted its one-time right to amend as a matter of course, it may make further amendments only with the opposing party's consent or with leave of court." United States ex rel. D'Agostino v. EV3, Inc., 802 F.3d 188, 192 (1st Cir. 2015) (citing Fed. R. Civ. P. 15(a)(2)).

Because the deadline for amending his complaint as a matter of course has long expired, Noel was required to obtain Defendants' consent or leave of court before filing his Third Amended Complaint. His failure to do so renders that pleading ineffective.

Therefore, the district judge should deny Noel's request to confirm that the Third Amended Complaint is the "sole operative pleading," and deny his request that the clerk issue summonses for the Third Amended Complaint. Doc. No. 102 at pg. 4. CONCLUSION Accordingly, for the foregoing reasons, the district judge should deny Noel's "Verified Motion to Compel Issuance of Summons Forthwith and to Confirm Operative Status of Amended Complaint." Any objections to this Report and Recommendation must be filed within fourteen (14) days of receipt of this notice.

The fourteen-day period may be extended upon motion. Failure to file any objection within the specified time waives the right to appeal the district court's Order. See *Santos-Santos v. Torres-Centeno*, 842 F.3d 163, 168 (1st Cir. 2016). Only those issues raised in the objection(s) to this Report and Recommendation "are subject to review in the district court" and any issues "not preserved by such objection are precluded on appeal." Sch.

Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (quoting *Keating v. Sec'y of Health & Hum. Servs.*, 848 F.2d 271, 275 (1st Cir. 1988)). Talesha L. Saint-Marc United States Magistrate Judge Sitting by designation January 22, 2026 ce: Arnold A. Noel, pro se Counsel of record