

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE, AT CHATTANOOGA

2008 FEB 22 P 3:04

ROY L. DENTON,

Plaintiff

v.

STEVE RIEVLEY,
in his individual capacity
Defendant

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Case No.

Chief Judge:

U.S. DISTRICT COURT
EASTERN DIST. TENN.
1:07-cv-211
BY _____ DEPT. CLERK
Curtis L. Collier

JURY DEMAND

PLAINTIFF'S MOTION TO AMEND THE COMPLAINT

Now comes the Plaintiff Roy L. Denton pursuant to Rule 15 of the Federal Rules of Civil Procedure and moves this honorable court to amend the complaint as follows:

The complaint be amended to remove the name of Dustin B. Denton as a co-plaintiff in this cause, and to otherwise strike and/or *dismiss without prejudice* the name of Dustin B. Denton in any such capacity as a plaintiff in this instant case.

In support of this motion, the defendant Roy L. Denton hereby states the following:

1. On behalf of Sgt. Dustin B. Denton, (hereinafter Sgt. Denton) I, while acting as his Power of Attorney while he was in Iraq serving his 2nd combat tour, I entered his name on this instant complaint as a *pro se* co-plaintiff. Dustin had no knowledge of me filing this lawsuit as I was not going to cause him any distractions while he was conducting combat missions in Iraq.

2. Sgt. Denton is currently on active duty in the United States Army and is stationed at Fort Carson, CO. He is expected to be reassigned to Fort Benning, GA where he is expected to redeploy for his 3rd tour with the 3rd LD. in June, 2008.

3. Nonetheless, Sgt. Denton as a member of the armed services is entitled to all protections due him under the **Service members' Civil Relief Act** and that I was in error thinking that I had to file this lawsuit with his name on it, so as to toll the statute of limitations

for him. Although I acted in good faith, I also acted in error.

4. Sgt. Denton has been recently notified by me that I had placed his name as plaintiff on this action and did so as "pro se" for both of us. Sgt. Denton rejects and takes exception to this action and he reserves his right to retain counsel and file a civil action and to not be prejudiced by statutes of limitations as tolled by application of the Service members' Civil Relief Act ("SCRA") until his formal discharge from the Army.

Therefore, given fact that Sgt. Denton does not desire to participate in this lawsuit at this time, and his complete exception to his name even being placed as a plaintiff, and his not knowing nor consenting to his name being added to this complaint, together and along with his rights under the Servicemembers' Civil Relief Act, Sgt. Denton's name should be stricken and dismissed without prejudice from this complaint so as to not prejudice him in any future filing of any complaint against whomever, concerning any allegation he may allege at any such time.

It is prayed that for the foregoing reasons this motion to amend the complaint should be well taken and granted as justice so requires.

Respectfully submitted, this 21st day of February, 2008

BY: 

Roy I. Denton, *pro se*
120 6th Ave.
Dayton, TN 37321
423-570-9653

CERTIFICATE OF SERVICE

The undersigned hereby certifies that an exact copy of this document has been served upon all parties of interest in this cause by placing an exact copy of same in the U.S. Mail addressed to such parties, with sufficient postage thereon to carry same to it's destination, on this 21 day of Feb, 2008.


Roy L. Denton

Copy mailed to:

Ronald D. Wells, BPR# 011185
Suite 700 Republic Centre
633 Chestnut Street
Chattanooga, TN 37540
423-756-5051