

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

DAVID C. BIGI, et al.,

Plaintiffs,

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Case No. 3:11-cv-228

-vs-

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

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WRIGHT-PATT CREDIT UNION, INC.,

Defendant.

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**DECISION AND ORDER**

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This case is before the Court on Plaintiffs' Motion for Leave to File an Amended Complaint and to Stay Defendant's pending Motion to Dismiss until the proposed amended complaint has been responded to by the Defendant (Doc. No. 12).

Under Fed. R. Civ. P. 15, a plaintiff may amend once as a matter of course without court permission before a responsive pleading is served or within twenty-one days after a responsive pleading or motion to dismiss under Fed. R. Civ. P. 12 is served. Defendant's Motion to Dismiss in this case was served July 22, 2011. Therefore Plaintiffs may file an amended complaint without court permission until August 12, 2011. If Plaintiffs file an amended complaint by that date, the filing will render the pending Motion to Dismiss moot.

If Plaintiffs do not file an amended complaint by August 12, 2011, they will require court permission to amend. That permission (or any further amendment) will only be granted if any motion to amend is accompanied by a proposed amended complaint.

The instant Motion is denied. If Plaintiffs have not filed an amended complaint by August 12, 2011, they must respond to the Motion to Dismiss not later than August 15, 2011 (See Order,

Doc. No. 10).

August 9, 2011.

s/ **Michael R. Merz**  
United States Magistrate Judge