

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

JUDY AKERS and
ESTATE OF WALTER AKERS,

Plaintiffs,

v.

Civil Action No. 2:12-0667

MINNESOTA LIFE INSURANCE CO.,
ALPHA NATURAL RESOURCES, LLC,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is a motion by defendant Alpha Natural Resources, LLC ("Alpha") to amend its Amended Cross-Claim against defendant Minnesota Life Insurance Co. ("Minnesota Life"), filed May 5, 2014.

Alpha seeks to add one claim under the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§ 1001-1461, against Minnesota Life: that Minnesota Life breached "its legal duties and obligations under" ERISA. According to the proposed amendment, Minnesota Life did so by refusing -- and continuing to refuse -- to pay life insurance benefits allegedly due to the Estate of Walter Akers. Alpha also claims that Minnesota Life breached obligations under ERISA by abusing its discretion in refusing to make those payments and by failing to pay those benefits after the issuance of this court's March 31 Memorandum Opinion and Order in this case, a decision that Alpha asserts directed Minnesota Life to pay the benefits.


Minnesota Life has not filed opposition to Alpha's motion. Moreover, Alpha indicated in its motion that Minnesota Life does not object to the motion, but that Minnesota Life requests 28 days to file responsive pleadings to the second amended cross-claim.

Under Federal Rule of Civil Procedure 15(a), the "court should freely give leave [to amend a pleading] when justice so requires." Fed.R.Civ.P. 15(a). "The law is well settled 'that leave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile.'" Edwards v. City of Goldsboro, 178 F.3d 231, 242 (4th Cir. 1999)(quoting Johnson v. Oroweat Foods Co., 785 F.2d 504, 509 (4th Cir. 1986)). There is no suggestion that the amendment would be unfairly prejudicial to Minnesota Life or that it has been presented in bad faith. Nor has it been shown to be futile.

Accordingly, it is ORDERED that Alpha's motion seeking leave to file a second amended cross-claim, filed May 5, 2014, be, and it hereby is, granted. The Clerk is directed to file today the attachment to Alpha's motion as its second amended cross-claim in this matter. It is further ORDERED that Minnesota Life shall answer or otherwise respond to the second amended cross-claim within 20 days of the entry of this order.

The Clerk is further directed to transmit copies of this order to all counsel of record and any unrepresented parties.

DATE: June 3, 2014



John T. Copenhaver, Jr.
United States District Judge