

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

J.O. HOUSE, ET AL.

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Plaintiffs

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VS.

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NO: 3:09CV00095 SWW

CONSECO LIFE INSURANCE
COMPANY

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Defendant

ORDER

By text entry order entered July 24, 2009, the Court granted Plaintiffs’ motion to file an amended complaint pursuant to Fed. R. Civ. P. 15(a).¹ Plaintiffs are hereby directed to file the amended pleading within five days from the entry of this order.

IT IS SO ORDERED THIS 27TH DAY OF JULY, 2009

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE

¹Federal Rule of Civil Procedure 15(a) provides that a party may amend a pleading “once as a matter of course before a responsive pleading is served” The term “pleading” must be read in connection with Rule 7(a), which enumerates the pleadings permitted under the federal rules as follows: a complaint, an answer, a reply to a counterclaim, an answer to a cross-claim, a third-party complaint, a third-party answer, and pursuant to a court order, a reply to an answer or a third party answer. Accordingly, a motion, including a motion to dismiss, does not qualify as a “pleading” that terminates a party’s right to amend a pleading as a matter of course, without leave of court, under Rule 15(a).