

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

INSPIRATION DAY TREATMENT INC.

PLAINTIFF

v.

4:08-CV-04148-WRW

DAYSPRING SERVICES OF ARKANSAS LLC

DEFENDANT

ORDER

Pending is Plaintiff's Motion for Clarification (Doc. No. 14).

On February 5, 2009, I entered an Order¹ denying Plaintiff's Motion for Leave to Amend.² However, the Order only addressed Plaintiff's Motion to Amend as it relates to adding a nondiverse Defendant, Mr. Wes Robbins ("Robbins").³

As Plaintiff points out in the Motion for Clarification, it appears that I have overlooked Plaintiff's proposed fraud and *quantum meruit* claims.⁴ In addition, I failed to address whether Plaintiff may add another Defendant, Alternative Opportunities, Inc ("AO").⁵ Plaintiff seeks to add AO based on information on Defendant's website indicating that Defendant had merged with AO.⁶

Defendant's Response challenges the addition of Mr. Robbins but does not address the fraud and *quantum meruit* claims.⁷ With regard to AO, Defendant contends that "[t]he attempted

¹Doc. No. 12.

²Doc. No. 6.

³*Id.*

⁴Doc. No. 14.

⁵*Id.*

⁶*Id.*

⁷Doc. No. 8.

amendment is futile because Inspiration Day Treatment has not set forth any reason to doubt, or even question, its ability to enforce the contract against the limited liability company with whom it contracted. . . .”⁸ I disagree, since Plaintiff has provided evidence of an alleged merger between Defendant and AO.⁹

At this juncture, it seems appropriate to allow Plaintiff to add AO and the fraud and *quantum meruit* claims.¹⁰ Accordingly, Plaintiff is directed to file an amended complaint, excluding claims against Robbins individually, by 5:00 p.m., Friday, February 13, 2009.

IT IS SO ORDERED this 6th day of February, 2009.

/s/ Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

⁸*Id.*

⁹Doc. No. 14 (Exhibit “1”).

¹⁰Under Civil Procedure Rule 15(a), leave to amend a complaint will be “freely given when justice so requires.”