

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

**OAK CREEK INVESTMENT PROPERTIES**

**PLAINTIFF**

**V.**

**CASE NO. 4:18-CV-4009**

**AMERICAN ELECTRICAL POWER SERVICES  
CORPORATION; KMT GROUP; and  
CLEARResult CONSULTING**

**DEFENDANTS**

**OPINION AND ORDER**

Currently before the Court are:

- Defendant American Electrical Power Services Corporation's ("AEP") Motion to Strike Plaintiff's First Amended Complaint (Doc. 37), and Plaintiff Oak Creek Investment Properties's ("Oak Creek") Response (Doc. 47);
- Defendant CLEARResult Consulting, Inc.'s ("CLEARResult") Motion to Strike Plaintiff's Amended Complaint (Doc. 39), and Oak Creek's Response (Doc. 48);
- CLEARResult's Motion to Strike Cross-Claim (Doc. 45) and Brief in Support (Doc. 46), and Defendant KMT Group, Inc's ("KMT") Response (Doc. 51);
- Oak Creek's Motion for Leave to File Amended Complaint (Doc. 49), and AEP's Response (Doc. 50); and
- KMT's Motion for Leave to File Its First Amended Answer, Cross-Claims, Counter-Claims, and Third-Party Claims (Doc. 52).

On March 28, after all of the aforementioned documents had been filed, this Court entered an Opinion and Order explaining that "(in this instance) the Court is not going to strike claims or deny leave to amend if the sole reason for doing so is that such party attempted

in good faith but failed, in a hyper-technical sense, to comply with the scheduling order.” See Doc. 53, p. 4. The Court did not rule at that time on the aforementioned motions, as they had interlocking issues and some were not yet ripe. Since then, all those motions have ripened, and no parties opposing leave to amend have raised any issues in support of their positions other than the previously mentioned hyper-technical failures to comply with the scheduling order.

**IT IS THEREFORE ORDERED** that AEP’s Motion to Strike Plaintiff’s First Amended Complaint (Doc. 37), CLEAResult’s Motion to Strike Plaintiff’s Amended Complaint (Doc. 39), and CLEAResult’s Motion to Strike Cross-Claim (Doc. 45) are all **DENIED**, and Oak Creek’s Motion for Leave to File Amended Complaint (Doc. 49) and KMT’s Motion for Leave to File Its First Amended Answer, Cross-Claims, Counter-Claims, and Third-Party Claims (Doc. 52) are both **GRANTED**. Accordingly, KMT’s filing at Doc. 35 is now KMT’s operative pleading, and Oak Creek’s filing at Doc. 36 is now Oak Creek’s operative complaint. The deadline for parties to respond to those pleadings shall be calculated in accordance with the Federal Rules of Civil Procedure as if those pleadings were filed today.

**IT IS SO ORDERED** on this 23<sup>rd</sup> day of April, 2019.

  
TIMOTHY L. BROOKS  
UNITED STATES DISTRICT JUDGE