

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 07-cv-00985-MSK-KMT

MARTHA A. CESERY TAYLOR,
an individual residing in Florida, and
WALTER Q. TAYLOR,
an individual residing in Florida,

Plaintiffs,

v.

DAVID E. K. PANICO,
an individual residing in Colorado,
JANICE L. PANICO
a/k/a/ JAN PANICO,
an individual residing in Colorado,
CAROL DOPKIN,
an individual residing in Colorado, and
CAROL DOPKIN REAL ESTATE AND RANCH, INC.,
a/k/a CAROL DOPKIN REAL ESTATE, INC.,
a Colorado corporation,

Defendants.

ORDER

This matter is before the court on “Plaintiffs’ Motion for Leave to Amend Pleadings” (Doc. No.143, filed November 14, 2008). It appears Plaintiffs want to amend their complaint by adding the additional claims of negligent misrepresentation, breaches of statutory duties, and vicarious liability. The Federal Rules of Civil Procedure provide that a party may amend a pleading by leave of court, and that leave shall be given freely when justice so requires. Fed. R.

Civ. P. 15(a). Although the federal rules permit and require liberal construction and amendment of pleadings, the rules do not grant the parties unlimited rights of amendment. A motion to amend may be denied on the grounds of undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, or futility of amendment. *Foman v. Davis*, 371 U.S. 178, 182 (1962). Further, pursuant to Fed. R. Civ.P. 15 (a)(2), “a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.”

Here, Plaintiffs’ Motion to Amend was filed over a year after the filing of their initial Complaint (Doc. No.1, filed September 11, 2007), and on the deadline for dispositive motions. The discovery deadline was October 22, 2008. The Plaintiffs’ first Amended Complaint was filed on October 29, 2007, and the defendants have filed an answer (Doc. 47, filed November 1, 2007). A Final Pretrial Conference is set for April 21, 2009. Therefore, due to the Plaintiffs’ delay in filing their Motion to Amend, and absent any showing that justice requires the Court grant Plaintiffs’ motion, it is denied.

It is hereby ORDERED that Plaintiffs’ Motion for Leave to Amend Pleadings (Doc. No. 143) is DENIED without prejudice.

Dated this 3rd day of March, 2009.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge