

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01620-MSK-CBS

JOHN KILMAN,
Plaintiff,

v.

CROSSMARK, INC., and
CHI MANAGEMENT GROUP, L.P.,
Defendants.

ORDER

Magistrate Judge Craig B. Shaffer

This civil action comes before the court on Mr. Kilman's "Motion for Leave to A[m]end" (filed May 28, 2009) (doc. # 50). Pursuant to the Order of Reference dated November 3, 2008 (doc. # 10) and the memorandum dated May 28, 2007 (doc. # 51), this matter was referred to the Magistrate Judge. The court has reviewed Mr. Kilman's Motion, the entire case file, and the applicable law and is sufficiently advised in the premises.

Defendants have filed their Answers to Mr. Kilman's Amended Complaint. (See docs. # 30, # 31, and # 5). Thus, Mr. Kilman may amend his "pleading only by leave of court . . ." Fed. R. Civ. P. 15(a). The court may deny a motion to amend a complaint for failure to submit the proposed amendment. See *Lambertson v. Utah Dept. of Corrections*, 79 F.3d 1024, 1029 (10th Cir. 1996) (district court did not abuse its discretion in denying plaintiff's motion to amend for failure to provide adequate explanation for delay in seeking amendment and for failure to provide a copy of the proposed amended pleading). See also *Bownes v. City of Gary, Indiana*, 112 F.R.D. 424, 425 (N.D. Ind. 1986) ("common sense" dictates that a party seeking leave to amend should accompany his motion with a copy of the proposed amended complaint); *Williams v. Wilkerson*, 90 F.R.D. 168, 170 (E.D. Va. 1981) (where plaintiff sought leave to amend, a copy of the proposed amended pleading must be attached to the motion). While Mr. Kilman has generally described the claims he

wishes to add, he has not attached a copy of a complete proposed Second Amended Complaint. Accordingly,

IT IS ORDERED that Mr. Kilman's "Motion for Leave to A[m]end" (filed May 28, 2009) (doc. # 50) is DENIED at this time for failure to submit the proposed Second Amended Complaint.

DATED at Denver, Colorado, this 29th day of May, 2009.

BY THE COURT:

s/ Craig B. Shaffer
United States Magistrate Judge