

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02340-MSK-KLM

JUDE T. FUSCO, and
JEAN A. FUSCO,

Plaintiffs,

v.

ACMI CORPORATION,

Defendant.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Plaintiffs' Unopposed Motion for Leave to File First Amended Complaint** [Docket No. 25; Filed March 6, 2009] (the "Motion"). The Court has reviewed the Motion, the entire case file and applicable case law and is sufficiently advised in the premises.

Plaintiffs request leave to file a First Amended Complaint. *Motion* [#25] at 1. The deadline for amendment of pleadings is March 13, 2009 [Docket No. 23]. Fed.R.Civ.P. 15(a) provides for liberal amendment of pleadings. Leave to amend is discretionary with the court. *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Viernow v. Euripides Dev. Corp.*, 157 F.3d 785, 799 (10th Cir. 1998). Amendment under the rule has been freely granted. *Castleglenn, Inc. v. Resolution Trust Co.*, 984 F.2d 1571 (10th Cir. 1993) (internal citations omitted). "Refusing leave to amend is generally only justified upon a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment." *Frank v. U.S. West, Inc.*, 3 F.3d 1357, 1365 (10th Cir. 1993). Considering that the Motion was filed within the deadline for amendment of pleadings and that Defendant does not oppose the Motion, the Court finds that justice requires that Plaintiffs be allowed to file a First Amended Complaint.

Accordingly, IT IS HEREBY **ORDERED** that the Motion is **GRANTED**. Plaintiffs' First Amended Complaint [Docket No. 26] is accepted for filing as of the date of this Order.

Dated: March 9, 2009