

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

Civil Action No. 09-cv-00040-MSK-KMT

GERALD HANSEN ELLER,

Plaintiff,

v.

EXPERIAN INFORMATION SOLUTIONS, INC., a foreign corporation, and
TRANSUNION LLC, a foreign corporation,

Defendants.

ORDER

This matter is before the court on Plaintiff's "Unopposed Motion to Amend First Amended Complaint Pursuant to Fed.R.Civ.P. 15(a)(2)." ([Doc. No. 31] [filed September 18, 2009] [hereinafter "Mot."].) Plaintiff seeks to amend the Complaint to remove several claims in order to "narrow the scope of the litigation and eliminate extraneous and unnecessary discovery." (Mot. at 2.) Defendants do not oppose the Motion. (*Id.* at 1.) The deadline to amend pleadings is November 18, 2009; therefore Plaintiff's Motion is timely filed.

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).

Upon review of the Proposed Second Amended Complaint, the court finds no indication of undue delay, bad faith, prejudice to the defendant or dilatory motive on the part of the plaintiff. *See id.* Moreover, the court finds the proposed amendments are not futile. *See id.* Therefore, Plaintiff's Motion (Doc. No. 31) is **GRANTED**. The Clerk of Court is directed to file "Plaintiff's Second Amended Complaint," attached to the Motion as Exhibit A (Doc. No. 31-2).

Dated this 21st day of September, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Kathleen M. Tafoya', written in a cursive style.

Kathleen M. Tafoya
United States Magistrate Judge