

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01225-PAB-MJW

WENDY TANCHEFF,

Plaintiff(s),

v.

JOHN ALDEN LIFE INSURANCE COMPANY AND ASSURANT, INC.,

Defendant(s).

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MINUTE ORDER

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Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Plaintiff's Motion to Amend Complaint (docket no. 22) is GRANTED for the reasons stated in the subject motion (docket no. 22) and in the interest of justice as outlined in Fed. R. Civ. P. 15(a)(2). The Amended Complaint is accepted for filing as of the date of this minute order. As to Defendant's futility argument, Judge Ebel has previously addressed that issue in the case of General Steel Domestic Sales, LLC v. Steel Wise, LLC, 2008 WL 2520423 (D. Colo. 2008). In the General Steel case, Judge Ebel stated, in pertinent part: "... Defendants' futility argument seems to place the cart before the horse. Rather than force a Rule 12(b)(6) motion into a Rule 15(a) opposition brief, the defendants may be better served by waiting to assert Rule 12 motions until the operative complaint is in place."

Date: October 1, 2009

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