

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02500-MSK-KLM

JOAN RODIER,

Plaintiff,

v.

BEKINS VAN LINES, LLC,  
ABACUS MOVING AND STORAGE, INC.,  
WHITE MOVING & STORAGE, LLC,  
AMS RELOCATION, INC., and  
TWIN CITIES MOVING SYSTEMS, INC.,

Defendants.

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**ORDER**

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**ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX**

This matter is before the Court on an **Unopposed Motion Pursuant to Fed. R. Civ. P. 15(a) by Defendants Twin Cities Moving Systems, Inc. and White Moving & Storage, LLC to Amend Answer to Amended Complaint and Assert Crossclaims** [Docket No. 28; Filed March 12, 2010] (the “Motion”).

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 Company*, 984 F.2d 1571 (10th Cir. 1993) (internal citations omitted). “If the underlying facts or circumstances relied upon by a [party] may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits.” *Foman*, 371 U.S. at 182. “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).

There is no basis for denying leave to amend here. The Motion was filed before the expiration of the amendment of pleadings deadline set forth in the Scheduling Order [Docket No. 26]. Plaintiff and the remaining Defendants do not oppose the Motion. Because the proposed crossclaim Defendant, Abacus Moving and Storage, Inc. has not been served, the Motion is not untimely. For all these reasons,

IT IS HEREBY **ORDERED** that the Motion is **GRANTED**.

IT IS FURTHER **ORDERED** that the Amended Answer by Defendants Twin Cities Moving Systems, Inc. and White Moving & Storage, LLC Stating Crossclaims Against Defendants Bekin Van Lines, LLC and Abacus Moving and Storage, Inc. [Document 28-2] is accepted for filing as of the date of this Order.

Dated: March 15, 2010

BY THE COURT:

s/ Kristen L. Mix  
Kristen L. Mix  
United States Magistrate Judge