

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 10-cv-02810-PAB-BNB

OILMAN INTERNATIONAL, FZCO,

Plaintiff,

v.

MARVIN BRUCE NEER d/b/a Tree Machines, and
JESUSA S. NEER a/k/a Jesusa S. Bartolome,

Defendants.

ORDER

This matter arises on Plaintiff's Motion to Amend the Complaint [Doc. #49, filed 05/12/2011] (the "Motion"). The Motion is DENIED WITHOUT PREJUDICE.

The plaintiff seeks to amend its Complaint to "insert additional allegations and the alleged right to recover exemplary damages." *Motion*, ¶ 1. Rule 15, Fed.R.Civ.P., provides that a complaint may be amended once as a matter of course within 21 days after serving it or, "if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed.R.Civ.P. 15(a)(1). "In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Id. at 15(a)(2). The plaintiff does not meet the deadlines of Rule 15(a)(1), and the defendants oppose the Motion. *Motion*, ¶ 1. Therefore, the plaintiff may amend only with the court's leave.

The Federal Rules of Civil Procedure require that a complaint "shall contain (1) a short

and plain statement of the grounds for the court's jurisdiction . . .; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought . . .” Fed. R. Civ. P. 8(a). “[T]he only permissible pleading is a short and plain statement of the claim showing that the pleader is entitled to relief on any legally sustainable grounds.” Blazer v. Black, 196 F.2d 139, 144 (10th Cir. 1952). The philosophy of Rule 8(a) is reinforced by Rule 8(d)(1), which provides that “[e]ach allegation must be simple, concise, and direct.” Taken together, Rules 8(a) and (d)(1) underscore the emphasis placed on clarity and brevity by the federal pleading rules.

The proposed amended complaint is 28 pages in length.¹ Attached to the proposed amended complaint is “Plaintiff’s Appendix to his Motion to Amend Complaint” which contains 13 pages of “Undisputed Facts” and numerous documents. The attachment is 376 pages in length. The proposed amended complaint coupled with the appendix contravene the requirements of Rule 8. Accordingly,

IT IS ORDERED that the Motion is DENIED WITHOUT PREJUDICE.

Dated May 17, 2011.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge

¹The initial Complaint [Doc. #1] is 22 pages in length and does not contain any attachments.