

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01798-WJM-KLM

KELSIE BURTON,

Plaintiff,

v.

CENTURY PARK ASSOCIATES LLC,

Defendant.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Motion for Leave to Amend Complaint** [#51] (the "Motion").

IT IS HEREBY **ORDERED** that the Motion [#51] is **DENIED without prejudice**.

First, Plaintiff has failed to comply with D.C.COLO.LCivR 7.1(a), which provides as follows:

Before filing a motion, counsel for the moving party or an unrepresented party shall confer or make reasonable good faith efforts to confer with any opposing counsel or unrepresented party to resolve any disputed matter. The moving party shall describe in the motion, or in a certificate attached to the motion, the specific efforts to fulfill this duty.

The Motion may be denied on this basis alone.

Second, Plaintiff asserts that Fed. R. Civ. P. 15(a)(1)(B) permits her to file an amended complaint as a matter of course. This is incorrect. Rule 15(a)(1)(B) allows a party to "amend its pleading once as a matter of course . . . 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." Here, the "earlier" triggering action in the case was the filing of Defendant's Motion to Dismiss [#18] on October 7, 2013, not the filing of Defendant's Answer [#48] on July 7, 2014.

Dated: July 29, 2014