

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

Civil Action No. 13-cv-02577-WJM-BNB

ROBERT PARKER,

Plaintiff,

v.

M&M ENERGY LLC, and
FOSTER ENERGY SERVICES, LLC,

Defendants.

ORDER

Now pending is the **Plaintiff's Opposed Motion for Leave to Amend Complaint** [Doc. # 32, filed 1/28/2014] (the "Motion to Amend"). The plaintiff seeks leave to add claims against two additional defendants--Martin Foster as manager of M&M Energy, and his father, Daniel Foster, whom the plaintiff argues in the Motion to Amend "would act as the manager in charge" "anytime Martin Foster was not present." Motion to Amend [Doc. # 32] at p. 3. In addition, the plaintiff seeks to add a claim alleging that M&M Energy and Foster Energy are joint employers. Id. The defendants oppose the Motion to Amend as untimely, brought in bad faith, and futile.

Unfortunately, the plaintiff failed to attach a copy of the proposed amended complaint as an exhibit to the Motion to Amend, contrary to the requirements of the local rules of this court. D.C.COLO.LCivR 15.1(b). The requirement that the proposed amended complaint be included as an exhibit to a motion to amend is particularly important here, where the defendants resist amendment based on futility, arguing that the plaintiff cannot plead sufficient facts to state a plausible claim. It is impossible to meaningfully assess the sufficiency of the proposed

amendment in the abstract and without the benefit of the proposed allegations.

IT IS ORDERED:

(1) The Motion to Amend [Doc. # 32] is DENIED without prejudice for failure to comply with D.C.COLO.LCivR 15.1(b); and

(2) The hearing on the Motion to Amend set for this afternoon (March 5, 2014) at 1:30 p.m. is VACATED.

Dated March 5, 2014.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge