

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 14–cv–03450–WYD–KMT

FULLER REAL ESTATE, LLC, a Colorado limited liability company,

Plaintiff,

v.

SYCAMORE BROKERAGE, LLC, d/b/a FULLER SOTHEBY’S INTERNATIONAL REALTY, a Colorado limited liability company,
R. SCOTT WEBBER, an individual, and
JOHN DOES 1 – 10,

Defendants.

ORDER

The matter before the court is the Plaintiff’s “Renewed Unopposed Motion for Leave to File Second Amended Complaint.” (Doc. No. 40 [Mot.], filed Sept. 9, 2015.) Plaintiff seeks to amend its complaint to add two new defendants, Majestic Reality, LLC (“Majestic”), and Sycamore Brokerage, LLC (“Sycamore”), to the plaintiff’s Fifth and Eighth claims for relief. Defendants do not oppose the motion. (*See id.* at 2–3.)

The Court freely grants leave to amend the pleadings when justice so requires. Fed. R. Civ. P. 15(a)(2). Leave is appropriate in the absence of any undue delay, bad faith or dilatory motive, repeated failure to cure deficiencies with previous amendments, undue prejudice to the opposing party, futility, or other similar reasons. *Foman v. Davis*, 371 U.S. 178, 182 (1962). Persons may be joined as defendants when “any right to relief is asserted against them jointly,

severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences,” and “any question of law or fact common to all defendants arise in the action.” Fed. R. Civ. P. 20(a)(2).

In its May 2015 scheduling order, the court set June 30, 2015, as the deadline for joinder of parties and amendment of pleadings. (*See* Doc. No. 31 at 9.) Plaintiff argues that it has good cause to join Majestic as a defendant and amend its complaint after this deadline. (*See* Mot. 2–4.) Plaintiff avers that it sent its initial discovery requests on May 18, 2015, granted the defendants several extensions, and received the defendants’ responses on July 16, 2015. (*See id.* at 4.) Plaintiff states that in those responses, the plaintiff discovered that two of the original defendants, Catalyst, LLC (“Catalyst”), and Village Marketing Associates, LLC (“Village”), were defunct entities owned by Majestic and Sycamore (respectively). (*See id.* at 2–3.) Plaintiff now alleges that, based upon its “understanding and belief,” Majestic and Sycamore had knowledge of “the License Agreement” and contributed to Catalyst’s and Village’s infringement and unfair use of Plaintiff’s intellectual property. (*See id.* at 3.)

Plaintiff has shown good cause to grant its motion. Plaintiff sent Defendants its discovery requests more than thirty days prior to the court’s June deadline to amend and join parties. Plaintiff files this motion after that deadline because it did not receive responses to its discovery requests until more than a month after the court’s amendment and joinder deadline. Those discovery requests contained the information that ultimately led the plaintiff to amend its complaint. (*See id.* at 3–4.) Joinder of Majestic as a defendant is permissible under Civ. R. 22(a)(2) because Plaintiff seeks to add Majestic as a defendant to two of its existing claims. The

motion is unopposed and there has been no showing of undue delay, bad faith, dilatory motive, or futility.

Accordingly, it is

ORDERED that Plaintiff's "Renewed Unopposed Motion for Leave to File Second Amended Complaint" is **GRANTED**. The Clerk is directed to file the Second Amended Complaint and Jury Demand (Doc. No. 40-1) and Exhibits 1-6 attached thereto (Doc. Nos. 40-2 through 40-7).

Dated this 28th day of September, 2015.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge