

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MGPI PROCESSING, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 20-2228-JWB-GEB
)	
ALLIED WORLD ASSURANCE)	
COMPANY (U.S.) INC., et al.,)	
)	
Defendants.)	
)	

ORDER

This matter is before the court on Plaintiff MGPI Processing, Inc.’s (“MGPI”), motion for leave to file and serve its First Amended Complaint (**ECF No. 37**). Plaintiff MGPI filed the motion on October 30, 2020, making any response to the motion due November 13, 2020. No response in opposition has been filed. Therefore, the motion is uncontested and may be granted without further notice pursuant to D. Kan. Rule 7.4.

Additionally, in its discretion, the Court finds the balance of factors weigh in favor of amendment of the complaint as analyzed under Fed. R. Civ. P. 15(a)(2), and justice requires amendment.¹

¹ The court considers a number of factors in deciding whether to allow an amendment, including timeliness, prejudice to the other party, bad faith, and futility of amendment. *Minter v. Prime Equip. Co.*, 451 F.3d 1196, 1204 (10th Cir. 2006) (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)); see also *Monge v. St. Francis Health Ctr., Inc.*, No. 12–2269–EFM–JPO, 2013 WL 328957, at *2 (D. Kan. Jan. 10, 2013), report and recommendation adopted, 2013 WL 328986 (D. Kan. Jan. 29, 2013). Rule 15(a)(2) provides leave “shall be freely given when justice so requires,” and the decision to allow an amendment is within the sound discretion of the court. See *J. Vangel Elec., Inc. v. Sugar Creek Packing Co.*, No. 11–2112–EFM, 2012 WL 5995283, at *2 (D. Kan. Nov. 30, 2012) (citing *Panis v. Mission Hills Bank*, 60 F.3d 1486, 1494 (10th Cir. 1995)).

IT IS THEREFORE ORDERED that Plaintiff MGPI Processing, Inc.'s Motion to Amend Its Complaint (**ECF No. 37**) is **GRANTED**. Plaintiff shall file the First Amended Complaint no later than **November 30, 2020**.

IT IS SO ORDERED.

Dated at Wichita, Kansas this 17th day of November, 2020.

s/ Gwynne E. Birzer
GWYNNE E. BIRZER
United States Magistrate Judge