

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

EUGENE SMITH, et al.,)	
)	
Plaintiffs,)	Civil Action No. 5:08-183-JMH
)	
v.)	
)	
)	
LEXINGTON-FAYETTE URBAN COUNTY)	MEMORANDUM OPINION AND ORDER
GOVERNMENT, et al.,)	
)	
Defendants.)	

** ** ** ** **

This matter is before the Court on Defendant Lexington-Fayette Urban County Government's (hereinafter, "LFUCG") Motion for Leave to File an Amended Answer to the Amended Complaint [Record No. 26] in this matter pursuant to Fed. R. Civ. P. 15(a)(2). No response is yet due, but the Court finds that it is adequately advised as to this motion on the pleadings filed to date.

Fed. R. Civ. P. 15(a)(2) provides that "the court should freely give leave when justice so requires." In this instance, Defendant seeks leave to amend its Answer to raise additional affirmative defenses which may now be applicable as a result of the resolution of certain federal criminal proceedings against Plaintiff Eugene Smith and a related civil forfeiture action against certain property. In other words, this amendment is intended to make Defendant's answer reflect events that have

occurred since the filing of the Defendant's original answer. Having carefully considered the matter, it is clear that an amendment at this time will not prejudice the opposing parties, particularly as discovery has yet to commence, and leave to amend should be granted.

The Court being adequately advised, **IT IS ORDERED:**

(1) that LFUCG's Motion for Leave to File an Amended Answer to the Amended Complaint [Record No. 26] shall be, and the same hereby is, **GRANTED** and

(2) that the Clerk shall **FILE** the tendered Amended Answer to the Amended Complaint in the record of this matter.

Pursuant to Fed. R. Civ. P. 16 and 26, **IT IS FURTHER ORDERED** as follows:

(3) that within twenty-one (21) days from the date of service of this Order, the parties, by counsel, shall meet, either in person or by telephone, to discuss the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures required by Fed. R. Civ. P. 26(a)(1), as amended December 1, 2007, and to develop a proposed discovery plan. See Fed. R. Civ. P. 26(f), as amended December 1, 2007.

(4) that within ten (10) days after the meeting the parties shall file a joint status report containing:

(a) the discovery plan;

- (b) the parties' estimate of the time necessary to file pretrial motions;
- (c) the parties' estimate as to the probable length of trial;
- (d) the dates mutually convenient for trial; and
- (e) the parties' decision as to whether the action may be referred to a United States magistrate judge for trial pursuant to 28 U.S.C. §636(c).

Counsel may utilize Form 35, Fed. R. Civ. P.(App.) as the form of the joint status report. Each party is directed to advise the Court at the time of the submission of the joint report of all parent corporations, subsidiaries, affiliates, members and/or partners with which it is associated.

This the 8th day of January, 2010.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge