

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
PADUCAH DIVISION
CASE NO.: 5:08-CV-111-R

WAYNE HACK

PLAINTIFF

v.

C-PLANT FEDERAL CREDIT UNION, et al.

DEFENDANTS

OPINION AND ORDER

This matter is before the Court upon Defendant C-Plant Federal Credit Union's Motion to Amend Answer to Add Counterclaim (Docket #10). Plaintiff has responded (Docket #11). The Court also considers Plaintiff's Supplemental Response to C-Plant's Motion to Amend Answer and Add Counterclaim (Docket #14), to which Defendant has replied (Docket #15). This matter is now ripe for adjudication. For the reasons that follow, Defendant's motion is GRANTED.

Defendant moves to add a counterclaim alleging that Plaintiff, while an employee of Defendant, fraudulently hid loan delinquency rates in violation of federal and state law, resulting in losses for Defendant. Plaintiff objects to the filing of Defendant's counterclaim on the basis that it cannot be substantiated factually. In making this assertion, Plaintiff relies on the deposition testimony of Mark Atwood, Defendant's former CEO, and financial reports generated by Defendant.

Defendant's motion was timely filed pursuant to the Court's scheduling order. Plaintiff's objection to Defendant's counterclaim addresses the merits of the counterclaim itself. Since Plaintiff's arguments rest on deposition testimony and documents outside the pleadings, they are better reserved for a motion for summary judgment.

For the foregoing reasons, IT IS HEREBY ORDERED that Defendant's Motion to

Amend Answer to Add Counterclaim is GRANTED.