

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for Leave to File First Amended Complaint (ECF No. 10) and Defendant West County Mall CMBS, LLC's ("West County Mall") Response in Opposition. Also pending is Defendant West County Mall's Motion to Dismiss (ECF No. 7). Upon consideration of the motion for leave to amend the complaint and the opposition thereto, the undersigned will grant Plaintiff's motion.

Under Federal Rule of Civil Procedure 15(a)(1)(B), a party may amend its pleading once as a matter of course within 21 days after service of a responsive pleading or of a motion to dismiss under Rule 12(b). Here, Defendant West County Mall filed a motion to dismiss in lieu of an answer on December 4, 2013, and Plaintiff filed her motion to file an amended complaint six days later on December 10, 2013. Further, the undersigned notes that the Court has not yet held a Rule 16 conference or entered a Case Management Order pertaining to, *inter alia*, amendment of pleadings and joinder of parties.

Additionally, in light of the First Amended Complaint, the Court will deny Defendant's Motion to Dismiss as moot. Defendant West County Mall is free to re-file its motion in response

to the amended complaint.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File First Amended Complaint (ECF No. 10) is **GRANTED**.

IT IS FURTHER ORDERED that Defendant West County Mall CMBS, LLC's Motion to Dismiss (ECF No. 7) is **DENIED** as **MOOT**.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 18th day of December, 2013.