

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

AUDREY L. BESSERMAN,  
Plaintiff,  
v.  
THE COMMERCIAL FINANCE GROUP,  
Defendant.

Case No. 2:11-CV-01340-KJD-LRL

**ORDER**

Presently before the Court is Defendant’s Motion to Dismiss (#8). In response, Plaintiff filed a Counter-motion for Leave to Amend the Complaint (#9). Defendant filed a response in opposition (#11) to the counter-motion to amend to which Plaintiff replied (#12).

Plaintiff’s Proposed Amended Complaint (#13/14) only asserts claims against California Factors and Finance (Arizona), Inc. No claims in the proposed amended complaint are asserted against Defendant The Commercial Finance Group. Since leave to amend should be freely granted in accordance with Federal Rule of Civil Procedure 15(a), the Court grants Plaintiff’s motion to amend. Thus, Defendant’s motion to dismiss is denied as moot. Furthermore, to the extent that Defendant argues that Plaintiff maintained the action against it in bad faith, the Court notes that if Defendant’s counsel had not suggested to Plaintiff that The Commercial Finance Group was a d/b/a

1 of Commercial Factors and Finance, see Defendant's Motion to Dismiss, Doc. No. 8, p.23, then  
2 Plaintiff's counsel might have been more inclined to believe its later assertion that it was not  
3 Plaintiff's employer.

4 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Counter-motion for Leave to  
5 Amend the Complaint (#9) is **GRANTED**;

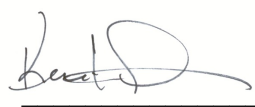
6 IT IS FURTHER ORDERED that Plaintiff file her amended complaint within seven (7) days  
7 of the entry of this order;

8 IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (#8) is **DENIED as moot**;

9 IT IS FURTHER ORDERED that Plaintiff shall serve the summons and amended complaint  
10 in compliance with Rule 4 within one-hundred and twenty (120) days of filing the amended  
11 complaint.

12 DATED this 19<sup>th</sup> day of April 2012.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

  
\_\_\_\_\_  
Kent J. Dawson  
United States District Judge