

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Stonyfield Farm, Inc.

v.

Civil No. 08-cv-488-JD

Agro-Farma, Inc.

v.

Schreiber Foods, Inc.

O R D E R

Stonyfield Farm, Inc. filed its original complaint against Agro-Farma, Inc. on November 25, 2008. Agro-Farma answered on January 17, 2009, but then amended its answer on February 5, 2009, adding three counterclaims against Stonyfield Farm. Stonyfield Farm answered the counterclaims on February 20, 2009. On April 21, 2009, Agro-Farma filed its second amended answer and counterclaims, which included seven claims against Stonyfield Farm, one claim against Schreiber Foods, Inc., and three claims against both. Stonyfield Farm and Schreiber Foods then answered the second amended answer and counterclaims.

Stonyfield Farm and Schreiber Foods moved for judgment on the pleadings with respect to four of the counterclaims. While the motion was pending, on August 19, 2009, Stonyfield Farm amended its complaint. The motion for judgment on the pleadings was granted, after which Agro-Farma filed its answer to

Stonyfield Farm's first amended complaint, along with its third amended counterclaims. On November 17, 2009, Stonyfield Farm and Schreiber Foods each filed replies to the third amended counterclaims.

The parties filed a joint motion to continue and extend certain deadlines in the second amended discovery plan. The court granted the motion, which provided that amendments to pleadings be filed by April 1, 2010. Accordingly, on that date, Stonyfield Farm filed a motion to amend its amended complaint and a motion to amend its reply to the third amended counterclaims. Agro-Farma filed a motion to amend its third amended counterclaims. Neither party filed a memorandum of law in support of the motions, and no party has objected to any of the motions.

Stonyfield Farm has already amended its complaint once, and Agro-Farma has already amended its answer three times. Federal Rule of Civil Procedure 15(a)(1), which allows for amending once as a matter of course, does not apply to either of the current motions to amend. Rule 15(a)(2) provides that, where Rule 15(a)(1) does not apply, "a party may amend its pleading only with . . . the court's leave," which should be freely given "when justice so requires." The parties suggest no reason why allowing these amendments would be prejudicial, and the court discerns

none. Therefore, both Stonyfield Farm's motion to amend its complaint and Agro-Farma's motion to amend its answer and counterclaims are granted.

Because Agro-Farma's third amended answer and counterclaims will no longer be an operative document, Stonyfield Farm's motion to amend its reply to the third amended answer and counterclaims is denied as moot.

The deadlines for filing responsive pleadings are dictated by Federal Rule of Civil Procedure 12.

Conclusion

For the foregoing reasons, Stonyfield Farm's motion to amend its amended complaint (doc. no. 53) and Agro-Farma's motion to amend its third amended answer and counterclaims (doc. no. 56) are granted. Stonyfield Farm's motion to amend its reply to Agro-Farma's third amended counterclaims (doc. no. 54) is denied.

SO ORDERED.



Joseph A. DiClerico, Jr.
United States District Judge

May 6, 2010

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