

March 20, 2015, after realizing this error, Plaintiff filed the above-mentioned motion to amend the Scheduling Order and Complaint. (Doc. No. 28).

Because Plaintiff missed the deadlines for amending its Complaint as a matter of course under Rule 15(a), Plaintiff was required to obtain Defendant's written consent, or the Court's leave, prior to filing its Amended Complaint. See Fed. R. Civ. P. 15(b). As noted, there is no dispute that Plaintiff failed to abide by this rule.


Rule 6 of the Federal Rules of Civil Procedure allows the Court, for good cause, to extend the time for a motion to be made after the time has expired for the motion to be filed. Fed. R. Civ. P. 6(b)(2). The Court notes that while Plaintiff failed to seek Defendant's consent, or the Court's leave, prior to filing its Amended Complaint, it did file the Amended Complaint in a timely manner, i.e., by the deadline set in the Court's Scheduling Order for the parties to amend their pleadings. Therefore, but for Plaintiff's procedural error, the Court would have been bound to "freely" grant leave for Plaintiff to file its Amended Complaint as "justice so requires." See Fed. R. Civ. P. 15(a)(2). Because the Court finds that it would be terribly harsh to deny Plaintiff her day in court because of a modest procedural error by Plaintiff's attorney, the Court GRANTS Plaintiff's Motion to Amend the Scheduling Order and Complaint and DENIES Defendant's Motion to the extent it seeks to strike Plaintiff's Amended Complaint. Accordingly, the Court effectively extends the deadline for Plaintiff to file its motion for leave to amend its Complaint, and the Amended Complaint, filed on March 11, 2015, is deemed as filed in a timely manner. As such, the Court GRANTS Defendant's Motion to the extent it seeks an extension of time to answer the Amended Complaint. Defendant must file its Answer to Plaintiff's Amended Complaint on or before April 28, 2015. All other deadlines provided in the Court's Scheduling Order remain in

effect.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Amend the Scheduling Order and Motion to Amend Complaint is GRANTED, as outlined above. Accordingly, Defendant's Motion to Strike Amended Complaint or Alternative Motion for Extension of Time to Answer or Respond is GRANTED as to Defendant's request for an extension of time to answer Plaintiff's Amended Complaint and DENIED as to Defendant's motion to strike Plaintiff's Amended Complaint. Defendant must file its Answer to Plaintiff's Amended Complaint on or before April 28, 2015.

IT IS SO ORDERED.

Signed: April 13, 2015


Frank D. Whitney
Chief United States District Judge

