

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BOUNTY MINERALS, LLC,)	CASE NO. 5:17-cv-1695
)	
)	
PLAINTIFF,)	JUDGE SARA LIOI
)	
vs.)	
)	MEMORANDUM OPINION
CHESAPEAKE EXPLORATION , LLC, et)	
al.,)	
)	
DEFENDANTS.)	

On January 10, 2018, defendants filed a partial motion to dismiss plaintiff’s amend complaint. (Doc. No. 31 [“PMTD”].) In support of their motion, defendants maintained that certain claims and certain defendants should be dismissed from this action pursuant to Federal Rules of Civil Procedure 12(b)(6).

On January 31, 2018, and in lieu of filing a response to defendants’ motion for partial dismissal, plaintiff filed a timely motion for leave to file a second amended complaint. (Doc. No. 32 (motion); Doc. No. 33 (memorandum in support [“Mem. Supp.”]).) Attached to the motion was a proposed second amended complaint. (Doc. No. 32-1 [“Proposed SAC”].) In its supporting memorandum, plaintiff states that it has sought leave to further amend its pleadings to, among other things, “address the issues raised in the Partial Motion to Dismiss.” (Mem. Supp. at 1637.) Defendants have filed a notice, advising the Court that they do not oppose the filing of a second amended complaint, but that they do not waive any arguments that could be raised in a motion to dismiss the second amended complaint. (Doc. No. 34 (Notice) at 1644.)

Rule 15(a)(2) provides that leave should be freely given when justice so requires. Fed. R. Civ. P. 15(a). Nonetheless, “[l]eave to amend may be denied when it would result in undue delay, prejudice to the opposing party, or repeated failure to cure deficiencies in the complaint.” *Phelps v. McClellan*, 30 F.3d 658, 662 (6th Cir. 1994) (citing, among authority, *Forman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 9 L. Ed. 2d 222(1962)).

The Court finds that justice requires that plaintiff be allowed to further amend its complaint. Moreover, permitting a further amendment will not result in undue delay or prejudice to defendants, and there is no evidence that plaintiff has repeatedly failed to cure deficiencies in the complaint. Plaintiff’s motion to file a second amended complaint (Doc. No. 32) is granted, and defendants’ motion to partially dismiss the amended complaint (Doc. No. 31) is denied without prejudice. Plaintiff shall file its proposed second amended complaint, a copy of which is attached to its motion as Doc. No. 32-1, within 7 days of this memorandum opinion.

IT IS SO ORDERED.

Dated: February 14, 2018



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE