

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

STATE FARM LIFE INSURANCE COMPANY,

Plaintiff,

vs.

Civil Action 2:14-cv-1902
Judge Graham
Magistrate Judge King

ROBERT LINDSEY, IV, *et al.*,

Defendants.

OPINION AND ORDER

This is an interpleader action involving the proceeds of an individual life insurance policy on the life of Latonia Banner, now deceased. Defendant Robert Lindsey, IV, the original beneficiary under the policy, was convicted of the murder of the deceased.¹ Defendants Diane Lockett and Diana Lockett were named as successor beneficiaries under the policy. The plaintiff stakeholder has deposited the funds with the Court and has been dismissed from the action. *Order and Judgment Entry of Partial Dismissal*, ECF 12. Defendants Diane and Diana Lockett have asserted claims to the proceeds and a crossclaim against defendant Lindsey. *Answer, Counterclaim and Crossclaim of Diana Lockett and Diana Lockett*, ECF 10. Defendant Lindsey has filed an amended answer in which he asserts a claim to the insurance proceeds and a reply to the crossclaim. *Amended Answer*, ECF 19. On February 27, 2015, the Court issued a *Preliminary Pretrial Order*, ECF 20, requiring, *inter alia*, that

¹An appeal from that conviction is currently pending in the Ohio 10th District Court of Appeals.

motions for leave to amend the pleadings be filed by April 15, 2015. This matter is now before the Court on the *Motion for Leave to Amend Crossclaim of Diane Lockett and Diana Lockett* ("Motion to Amend"), ECF 22. Defendants Diane and Diana Lockett seek to amend their crossclaim to include the common-law elements of the doctrine of murderer not to inherit. Defendants Diane and Diana Lockett argue that these additional grounds for relief came to light after reviewing briefs filed in defendant Lindsey's criminal appeal from his murder conviction. Defendant Lindsey opposes the *Motion to Amend*, *Defendant Robert Lindsey's Response*, ECF 23, and defendants Diane and Diana Lockett have filed a reply. ECF 24.

The *Motion to Amend* is governed by Rule 15(a) of the Federal Rules of Civil Procedure. When a party cannot amend its pleading as a matter of course, see Fed. R. Civ. P. 15(a)(1), that party may amend "only with the opposing party's written consent or the court's leave." Fed. R. Civ. P. 15(a)(2). The court "should freely give leave when justice so requires." *Id.* Leave to amend may be denied, however, if the court finds "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of the amendment, etc." *Foman v. Davis*, 371 U.S. 178, 182 (1962). See also *Marquette Gen. Hosp. v. Excalibur Med. Imaging, LLC*, 528 F. App'x 446, 448 (6th Cir. 2013).

Defendant Lindsey opposes the *Motion to Amend* because he disagrees with the allegations in the proposed amended crossclaim. Defendant Lindsey also argues that the proposed amended crossclaim contains many of the same allegations contained in the original

crossclaim. *See Defendant Robert Lindsey's Response*, pp. 1-7.

Defendant Lindsey's arguments are not well taken. Defendant Lindsey's disagreement with the allegations in the proposed amended crossclaim is simply not a sufficient basis to deny leave to amend. Whether defendants Diane and Diana Lockett can prove those allegations must, of course, await further development of the record. Moreover, defendants Diane and Diana Lockett seek leave to amend their crossclaim based on a review of filings made in defendant Lindsey's criminal appeal, which were apparently not available to them when they filed their crossclaim. *See id.* at Exhibit 1. There is therefore no evidence of undue delay, bad faith, or dilatory motive on their part.

Accordingly, the *Motion for Leave to Amend Crossclaim of Diane Lockett and Diana Lockett*, ECF 22, is **GRANTED**. The Clerk is **DIRECTED** to file defendant Diane and Diana Lockett's amended crossclaim, which is attached to their motion as Exhibit 1.

May 1, 2015

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge