

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Suzy Wells,)
)
Plaintiff,)
)
vs.)
)
Allergan USA, Inc. and Medicis)
Aesthetics, Inc.,)
)
Defendants.)
_____)

Civil Action No. 6:12-3509-TMC

ORDER

This matter is before the court on the defendants’ motion to dismiss (ECF No. 8) and the plaintiff’s motion to amend her complaint (ECF No. 31).

The plaintiff originally filed this action in state court, alleging various products liability claims. The defendants properly removed the matter to this court and then moved to dismiss the complaint as preempted by the Medical Device Amendments to the Food, Drug & Cosmetic Act and not properly plead under the federal rules. In response, the plaintiff moved to amend her complaint to cure the pleading deficiencies.

The court may grant leave to amend “when justice so requires” as long as the amendment would not result in undue delay or prejudice and is not the product of the movant’s bad faith or dilatory motive. Fed. R. Civ. P. 15(a); *Forman v. Davis*, 371 U.S. 178, 182 (1962).

In this case, the defendants do not oppose the plaintiff’s motion to amend (*see* ECF No. 42) and the court sees no reason to deny the motion. The plaintiff’s motion to amend (ECF No. 31) is, therefore, granted and the defendants’ motion to dismiss (ECF No. 8) is denied as moot. The plaintiff has ten days from the entry of this order to file her amended complaint.

IT IS SO ORDERED.

Anderson, South Carolina
July 16, 2013

s/Timothy M. Cain
United States District Court Judge