

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

STURGIS MOTORCYCLE RALLY,)	CIV. 11-5052-JLV
INC.,)	
)	
Plaintiff,)	ORDER GRANTING
)	PLAINTIFF'S MOTION TO
vs.)	AMEND COMPLAINT
)	
RUSHMORE PHOTO & GIFTS,)	
INC.; JRE, INC.;)	
CAROL NIEMANN;)	
PAUL A. NIEMANN; and)	
BRIAN M. NIEMANN,)	
)	
Defendants.)	

Plaintiff Sturgis Motorcycle Rally, Inc., (“SMRI”) moves the court for leave to amend its complaint to add Wal-Mart Stores, Inc. (“Wal-Mart”) as a defendant in this action. (Docket 48). Under Fed. R. Civ. P. 15, the court should freely grant motions to amend when justice so requires. Fed. R. Civ. P. 15(a). “[A] district court’s denial of leave to amend pleadings is appropriate only in those limited circumstances in which undue delay, bad faith on the part of the moving party, futility of the amendment, or unfair prejudice to the non-moving party can be demonstrated.” Roberson v. Hayti Police Dep’t, 241 F.3d 992, 995 (8th Cir. 2001).

The court finds it appropriate to allow SMRI to amend its complaint as proposed. SMRI’s motion is timely as SMRI filed its motion before the April 2, 2012, deadline for joining parties and amending the pleadings expired. See Docket 47 at p. 2. The discovery deadline is September 17, 2012, see

id., so adding Wal-Mart as a party at this early stage will not unduly protract the litigation. The amendment will not cause undue delay. Additionally, SMRI filed the motion with a good faith belief joinder of Wal-Mart as a defendant is proper.

The court also finds the amendment is not futile, but rather is proper under Fed. R. Civ. P. 20. Under Rule 20, joinder of persons as defendants is appropriate if:

- (A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and
- (B) any question of law or fact common to all defendants will arise in the action.

Fed. R. Civ. P. 20(a)(2). Here, SMRI asserts a right to relief against Wal-Mart and the existing defendants jointly, severally, or with respect to the same transaction or occurrence or series of transactions or occurrences and questions of liability and damages are common to all defendants. Finally, the court cannot see how the proposed amendment will prejudice defendants—a finding bolstered by the fact defendants informed the court they do not oppose the motion. Accordingly, good cause appearing, it is hereby

ORDERED that SMRI's motion to amend (Docket 48) is granted. Within seven (7) days of this order, SMRI shall file its amended complaint adding Wal-Mart as a defendant in this action. To avoid undue delay in this

case, SMRI shall serve the summons and amended complaint on Wal-Mart and the existing defendants as soon as possible.

Dated April 23, 2012.

BY THE COURT:

/s/ Jeffrey L. Viken _____

JEFFREY L. VIKEN

UNITED STATES DISTRICT JUDGE