
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

JAMES POULSEN,
Plaintiff,

vs.

**CACHE VALLEY TRANSIT
DISTRICT, and TODD BEUTLER, in
his individual capacity,**
Defendant,

**MEMORANDUM DECISION
AND ORDER**

Case No. 1:18-CV-00110-DAK

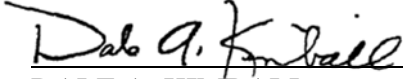
Judge Dale A. Kimball

On November 28, 2018, Defendants Cache Valley Transit District and Todd Beutler filed a Motion to Dismiss. On December 27, 2018, this court granted Plaintiff's Stipulated Motion for Extension of Time to respond to Defendants' Motion to Dismiss. The parties agreed that Plaintiff's response would be due on January 25, 2019. On January 25, 2019, Plaintiff filed his response concurrently with a Motion for Leave to Amend his complaint.

Federal Rule of Civil Procedure 15 allows "[a] party to amend its pleading once as a matter of course" within "21 days after serving it" or within "21 days after service of a motion under Rule 12(b)." Fed. R. Civ. P. 15(a)(1)(A) and (B). In all other cases, parties may amend their pleadings "only with the opposing party's written consent or the court's leave," and "the court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). District courts "enjoy broad discretion" when deciding whether to grant leave. *Ayres v. Portfolio Recovery Assocs., LLC*, 2018 WL 6706021, at *2 (D. Utah Dec. 20, 2018) (citing *Patton v. Guyer*, 443 F.2d 79, 86 (10th Cir. 1971)).

In this case, Plaintiff moved to amend his complaint more than 21 days after Defendants served their Motion to Dismiss. Nevertheless, the parties stipulated to an extension of time for Plaintiff to respond outside the 21-day period. Given the parties' stipulation and the preliminary stage of the proceedings, the court sees no issue in allowing Plaintiff to amend his complaint. The court, therefore, concludes that Defendants' Motion to Dismiss is moot because it was filed in relation to Plaintiff's original complaint, which will cease to be the active pleading once Plaintiff files his amended complaint. Accordingly, Plaintiff's Motion for Leave to Amend is GRANTED and Defendants' Motion to Dismiss is DENIED AS MOOT.

DATED this 30th day of January, 2019.



DALE A. KIMBALL
United States District Judge