
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

**IHC HEALTH SERVICES INC., dba
PRIMARY CHILDREN’S HOSPITAL,**

Plaintiff,

v.

**KAISER FOUNDTION HEALTH
PLAN, INC.**

Defendant.

**MEMORANDUM DECISION AND
ORDER**

Case No. 2:15cv00039-JNP-PMW

District Judge Jill N. Parrish

Magistrate Judge Paul M. Warner

This matter was referred to Magistrate Judge Paul M. Warner pursuant to 28 U.S.C. § 636(b)(1)(A).¹ Before the court is Plaintiff IHC Health Services Inc., dba Primary Children’s Hospital’s (“Plaintiff”) motion for leave to file its first amended complaint.² The court has carefully reviewed the memoranda submitted by the parties. Pursuant to civil rule 7-1(f) of the United States District Court for the District of Utah Rules of Practice, the court elects to determine the motion on the basis of the written memoranda and finds that oral argument would not be helpful or necessary. *See* DUCivR 7-1(f).

Under rule 15(a)(2) of the Federal Rules of Civil Procedure, “[t]he court should freely give leave” to amend a complaint “when justice so requires.” Fed. R. Civ. P. 15(a)(2). Leave to amend is liberally granted to allow related issues to be decided together and on the merits. In

¹ Docket nos. 3 and 18.

² Docket no. 19.

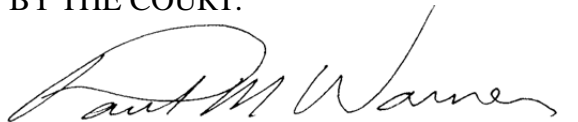
general, a court may refuse leave to amend only on “a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment.” *Duncan v. Manager, Dep’t of Safety, City & County of Denver*, 397 F.3d 1300, 1315 (10th Cir. 2005) (quotations and citation omitted). “A proposed amendment is futile if the complaint, as amended, would be subject to dismissal.” *Gohier v. Enright*, 186 F.3d 1216, 1218 (10th Cir. 1999).

Defendant fails to establish undue delay or undue prejudice, bad faith, or a dilatory motive. Rather, it appears that Defendant was aware or should have been aware of the issues necessitating amendment, and that Defendant may in fact bear some responsibility for any delay. Accordingly, Plaintiff’s motion for leave to file the first amended complaint is **GRANTED**.³ Within 7 days of the date of this order, Plaintiff shall file its second amended complaint.

IT IS SO ORDERED.

DATED this 12th day of May, 2016.

BY THE COURT:



PAUL M. WARNER
United States Magistrate Judge

³ Docket no. 19.