

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JOSEPH M. SANDERS, III,

Plaintiff,

v.

CIVIL ACTION NO. 1:17-02230

SYNCHRONY BANK,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's "Unopposed Motion to Set Aside Default" (ECF No. 10) and plaintiff's "Motion for Leave to File Amended Complaint" (ECF No. 21). For the reasons that follow, plaintiff's and defendant's motions are **GRANTED**.

I. Defendant's Unopposed Motion to Set Aside Default

On May 18, 2017, Defendants filed a motion to set aside entry of default, originally entered on May 8, 2017. ECF No. 10. As noted in the motion, Rule 55(c) of the Federal Rules of Civil Procedure permits the setting aside of an entry of default for good cause. Fed. R. Civ. P. 55(c); see also Rasmussen v. American Nat. Red Cross, 155 F.R.D. 549 (S.D.W. Va. 1994).

Defendant alleges that good cause exists because plaintiff improperly served defendant and upon becoming aware of the Complaint, plaintiff and defendant informally stipulated to an extension of the responsive pleading deadline. See id. at ¶¶ 2-6.

Additionally, the motion indicates that plaintiff does not oppose the motion. Id. For good cause shown, the court grants defendant's motion.

II. Plaintiff's Motion to Amend Complaint

On August 25, 2017, plaintiff filed its "Motion for Leave to File Amended Complaint" accompanied by its First Amended Complaint. ECF Nos. 21, 21-1.

Federal Rule of Civil Procedure 15 governs the amendment of pleadings. Rule 15(a)(1) provides a plaintiff with the opportunity to amend his or her Complaint once as a matter of course, subject to certain time limitations. Rule 15(a)(2), on the other hand, provides that "In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires."

Counsel for defendant agreed in writing to plaintiff's proposed amendment on August 25, 2017. See ECF No. 22. In accordance with Rule 15(a)(2), the court grants plaintiff's motion to amend.

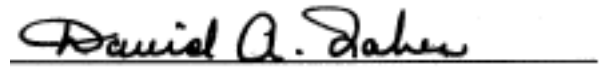
III. Conclusion

Accordingly, the court **GRANTS** defendant's Motion to Set Aside Default, **GRANTS** plaintiff's Motion for Leave to File Amended Complaint, and **DIRECTS** the Clerk to enter the Amended Complaint, ECF No. 21-1.

The Clerk is directed to forward a copy of this Memorandum Opinion to all counsel of record.

It is **SO ORDERED** this 27th day of September 2017.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a solid horizontal line.

David A. Faber

Senior United States District Judge