

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

LEAH D. GRIFFITH, et al.,

Plaintiff,

v.

CIVIL ACTION NO. 2:08-cv-00823

CHAPMANVILLE HOME PLACE, INC., et al.,

Defendants.

**MEMORANDUM OPINION & ORDER**

Pending before the court is a Motion for Leave to Join Party and to File Third Amended Third-Party Complaint, from defendants/third-party plaintiffs Leah D. Griffith and Kevin Stavnicky (“Movants”) [Docket 143]. This motion is **DENIED**.

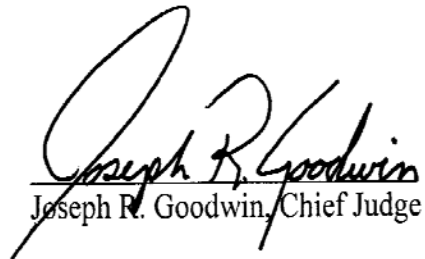
A court “should freely give leave” to a party to amend its pleadings “when justice so requires.” Fed. R. Civ. Proc. 15(a)(2). A court may exercise its discretion to deny leave to amend for reasons such as “undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of the amendment, etc.” *Foman v. Davis*, 317 U.S. 178, 182 (1962).

Movants claim to have discovered the evidence that justifies their motion in mid-March, 2010, yet their motion was not filed until June 17, 2010. They offer no explanation for this delay.

Trial is scheduled for July 27, 2010. I decline to grant, on the eve of trial, a motion to join a new party and amend the pleadings.

The Motion for Leave to Join Party and to File Third Amended Third-Party Complaint [Docket 143] is **DENIED**. The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: July 12, 2010

  
Joseph R. Goodwin, Chief Judge