

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 09-80190-CIV-HURLEY/HOPKINS

JONATHAN E. PERLMAN,

Plaintiff,

vs.

CAPTIN CONSTRUCTION GROUP, INC.,

Defendant.

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**ORDER GRANTING MOTION FOR LEAVE TO AMEND COMPLAINT AND EXTEND TRIAL DATE AND DENYING MOTION FOR EXPEDITED STATUS CONFERENCE**

**THIS CAUSE** is before the court upon the plaintiff's motion for leave to amend complaint and add third-parties and to extend trial date and discovery deadlines [DE # 39], and the parties' joint motion for expedited status conference and for expedited ruling on plaintiff's motion to amend [DE # 41]. Plaintiff's complaint seeks avoidance and recovery of certain alleged fraudulent transfers. The instant motion explains that plaintiff recently identified additional transfers of \$200,000 arising from the same underlying factual circumstance set forth in the complaint. Plaintiff therefore seeks to amend his complaint to allege the additional transfers and to add third-parties (a title company and individual) allegedly involved in the transfer. Defendant opposes the motion, arguing that it is "untimely and without sufficient basis."

The court "should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). Leave to amend should be denied only where the amendment would be prejudicial to the opposing party; where there has been bad faith or undue delay on the part of the movant; and where the amendment would be futile. *Bryant v. Dupree*, 252 F.3d 1161, 1163 (11th Cir. 2001).

After considering the instant motion, the applicable law, and the record in this case, the court concludes that leave to amend should be given. At a minimum, granting leave to amend will allow plaintiff to bring all his claims in a single suit, thus promoting the interest of judicial economy. Further, although defendant opposes the instant motion, it has not shown or argued that it will suffer prejudice if leave is given. Finally, the court is persuaded that the plaintiff has pursued his claims diligently and in good faith.

Having reviewed the motions, it is hereby **ORDERED** and **ADJUDGED** that:

1. Plaintiff's motion for leave to amend complaint and add third-parties and to extend trial date and discovery deadlines [DE # 39] is **GRANTED**.
2. Plaintiffs are directed to file the amended complaint separately in the court file rather than as an exhibit to the motion for leave to amend.
3. This case is **RE-SET** for trial on the **October 2010 Trial Calendar** which commences on **Tuesday, October 5, 2010**. Counsel for all parties shall appear at a calendar call commencing at **2:00 p.m.** on **Monday, October 4, 2010** at courtroom five at the U.S. Courthouse, 701 Clematis Street, West Palm Beach, Florida.
4. Pretrial discovery shall be conducted in accordance with Local Rule 16 .1 and Rule 26(a) of the Federal Rules of Civil Procedure. In light of the extension of trial date, pretrial discovery deadlines will be adjusted to comport with the new calendar call date for this case. Unless amended by subsequent order, the following deadlines shall apply:

<u>Mediation Conference</u>	60 days before calendar call
<u>Rule 26(a)(3) Witness and Exhibit Disclosures</u>	30 days before calendar call

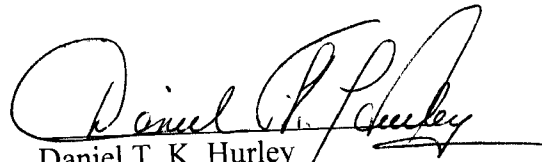
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<u>Discovery Cutoff</u>	10 days before calendar call
<u>Motions in Limine</u>	5 days before calendar call
<u>Pretrial Stipulation</u>	5 days before calendar call
<u>Voir Dire Questions</u>	First day of jury trial
<u>Jury Instructions</u>	First day of jury trial
<u>Proposed Findings of Fact &amp; Conclusions of Law</u>	First day of non jury trial

5. The parties' joint motion for expedited status conference and for expedited ruling on plaintiff's motion to amend [DE # 41] is **DENIED**.

**DONE** and **SIGNED** in Chambers at West Palm Beach, Florida this 11 day of February,

2010.

  
 Daniel T. K. Hurley  
 United States District Judge

*Copies provided to counsel of record*