

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BETTY COOPER *et al.*,

Plaintiffs,

v.

FIRST GOVERNMENT MORTGAGE
AND INVESTORS CORP. *et al.*,

Defendants.

Civil Action No.: 00-536 (RMU)

Document No.: 69

MEMORANDUM ORDER

GRANTING THE PLAINTIFFS' MOTION FOR LEAVE TO FILE A THIRD AMENDED COMPLAINT

This matter comes before the court upon the plaintiffs' motion for leave to file a third amended complaint. The plaintiffs seek to add two new parties, Wells Fargo Home Mortgage Company and Countrywide Home Loans, Inc., but do not seek to add any new claims. *See* Pl.'s Mot. to Am. Compl. ("Pl.'s Mot.") at 3.

Under Federal Rule of Civil Procedure 15(a), leave to amend a complaint "shall be freely given when justice so requires." FED. R. CIV. P. (15)(a); *see also Davis v. Liberty Mutual Ins. Co.*, 871 F.2d 1134, 1136 (D.C. Cir. 1989) ("Rule 15 embodies a generally favorable policy toward amendments"). It is an abuse of discretion for the court to deny leave to amend *unless* there is a sufficiently compelling reason, such as "undue delay, bad faith or dilatory motive ... repeated failure to cure deficiencies by [previous] amendments ... [or] futility of amendment." *See Firestone v. Firestone*, 76 F.3d 1205, 1208 (D.C. Cir. 1996) (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)) (emphasis added). The Supreme Court has explained that "if the underlying facts or circumstances relied upon by a plaintiff may be a

proper source of relief, he ought to be afforded an opportunity to test his claim on the merits.”
Foman, 371 U.S. at 182.

The plaintiffs explain that the two new parties are necessary parties because they share liability with First Government Mortgage and Investors Corporation for the violations already alleged. *See id.* Only *after* the plaintiffs sought leave to file the *second* amended complaint did Wells Fargo purchase two of the plaintiffs’ loans from G.E. Capital Mortgage Services, and did the plaintiffs learn that Countrywide rather than Fairbanks Mortgage Capital Corp. owns the loan made to Bertha Knight.¹ *See id.* at 2. The plaintiffs explain that the third amended complaint will not cause undue delay because the court’s scheduling order has been suspended (due to the bankruptcy of First Government), no depositions have been taken, and a trial date has not yet been set. *See id.* at 3; Pl.’s Memo. at 2; Order Granting Mot. to Suspend Sched. Order, dated May 21, 2001 (Urbina, J.).

Two of the defendants oppose the plaintiffs’ motion: G.E. Capital Mortgage Services, Inc. (“GECMSI”) and Consec Financial Group (“Consec”). GECMSI and Consec argue that granting the plaintiffs leave to amend their complaint would prejudice them by confusing the issues and the jury and increasing costs. *See* Def.’s Opp’n at 2. However, GECMSI and Consec have failed to provide the court with a compelling showing of the prejudice that this third amended complaint would cause them, or any other compelling reasons why the court should not grant the plaintiffs’ motion.

¹ Since learning this information, the plaintiffs have dismissed Fairbanks as a defendant in this case.

Accordingly, upon consideration of the plaintiffs' motion for leave to file a third amended complaint, the defendants' opposition thereto, and Federal Rule of Civil Procedure 15(a),

it is this _____ day of August, 2001,

ORDERED that the plaintiffs' motion be **GRANTED**; and it is

FURTHER ORDERED that the plaintiffs' Third Amended Complaint be filed.

SO ORDERED.

Ricardo M. Urbina
United States District Judge