

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

CASE NO. 5:24-cv-00700

ANNA WHITE FERRARACCIO

Plaintiff

v.

NEW PEOPLE's BANK

Defendant

PLAINTIFF's RESPONSE TO MOTION TO DISMISS
AMENDED COMPLAINT AND MOTION FOR LEAVE TO AMEND
TO FILE SECOND AMENDED COMPLAINT

Plaintiff, by and through her undersigned counsel and pursuant to Rule 15(a), Fed. R. Civ. Pro., hereby seeks an Order granting leave to file a Second Amended Complaint in this matter and states as follows:

1. The Plaintiff initially represented herself in this matter *pro se*. The first two versions of the Complaint in this matter were filed *pro se*. The undersigned counsel has appeared in this matter in the past two weeks and seeks leave to amend the pending Complaint in this matter.

2. Plaintiff seeks leave to amend the Complaint to add claims for violation of the Equal Credit Opportunity Act and Fair Housing Act and to otherwise clean up the *pro se* pleading filed in this matter. The proposed Second Amended Complaint is attached to this Motion.

3. Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to

amend a complaint should be freely granted where justice requires. A court may only deny leave to amend where it is apparent from the record (1) the moving party has engaged in undue delay or bad faith, (2) the amendment would be futile or (3) The amendment would prejudice the other party. *Synthes, Inc. v. Marotta*, 281 F.R.D. 217, 224 (E.D. Pa. 2012). Unless a proposed amendment may be clearly seen to be futile, conjecture about the merits of the litigation should not enter into the decision as to whether leave to amend should be granted. *Fariasantos v. Rosenberg & Associates, LLC*, 303 F.R.D. 272, 279 (E.D. Va. 2014). The Supreme Court has held that In the absence of any apparent or declared reason-such as undue delay, bad faith or dilatory motive on the part of the movant, that the leave sought should be freely given. *Foman v. Davis*, 371 U.S. 178, 182 (1962).

4. The undersigned initially conferred with opposing counsel on the possible amendment of the Complaint in this matter, but will confer again now that the proposed Second Amended Complaint has been filed with this Court and will advise the Court of the Bank's position on this Motion.

WHEREFORE, the Plaintiff seeks leave of Court to file the attached Second Amended Complaint and for any other relief this Court deems just and proper under the circumstances.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been e-mailed this 20 day of June 2025: William S. Winfrey, PO Box 1159, Princeton, WV 24740-1159.

Behren Law Firm
1930 N. Commerce Parkway-Suite 4
Weston, FL 33326
(954) 636-3802 - phone
(772) 252-3365 - fax
scott@behrenlaw.com

By:/Scott M. Behren/
Scott M. Behren
Fla Bar No. 987786

/s/Robert P. Dunlap, II
Robert P. Dunlap, II Esq.
Dunlap & Associates
WVSB #10012
345 Prince Street
Beckley, WV 25801
Phone: 304-255-4762
Fax: 304-255: 4760
robertdunlapesq@gmail.com