

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ERROL JAMES	:	
	:	CIVIL ACTION
	:	
v.	:	
	:	NO. 03-CV-1037
	:	
INTERSTATE CREDIT AND	:	
COLLECTION, INC.	:	

SURRICK, J.

JULY 29, 2005

MEMORANDUM AND ORDER

Presently before the Court is Defendant Interstate Credit and Collection, Inc.’s Motion For Leave To File An Amended Answer And Affirmative Defenses To Plaintiff’s Second Amended Complaint Pursuant To Federal Rule Of Civil Procedure 15(a) (Doc. No. 47) and Plaintiff Errol James’s Opposition To Defendant’s Motion For Leave To File An Amended Answer And Cross-Motion For Leave To File A Third Amended Complaint (Doc. No. 49). For the following reasons, Defendant’s Motion and Plaintiff’s Cross-Motion will be denied.

Defendant seeks leave to file an Amended Answer to add four affirmative defenses. (Doc. No. 47 at 2.) “[A] motion for leave to amend . . . [is] addressed to the sound discretion of the district court.” *Cureton v. Nat’l Collegiate Athletic Ass’n*, 252 F.3d 267, 272 (3d Cir. 2001). The Third Circuit generally holds that leave to amend should be granted freely. However, the policy favoring liberal amendment of pleadings is not unbounded. *Dole v. Arco Chem. Co.*, 921 F.2d 484, 486-87 (3d Cir. 1990). Rather, it delineates certain factors which weigh against amendment, including “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, [and] futility of amendment.” *Id.* at 487 (citing *Forman v. Davis*, 371 U.S. 178 (1962)).

Defendant filed the instant Motion on July 6, 2005. Trial is scheduled for August 10, 2005, with pre-trial submissions due on July 29, 2005. Plaintiff filed his Complaint on February 25, 2003, two-and- a-half years ago. Discovery was completed long ago, the parties have presented the matter to a panel of arbitrators, and a Memorandum and Order disposing of Plaintiff’s motion for summary judgment was filed in April, 2005. (Doc. No. 40.) “When a party delays making a motion to amend until after summary judgment has been granted . . . , other courts have recognized that the interests in judicial economy and finality of litigation may become particularly compelling.” *Cureton*, 252 F.3d at 273 (citations omitted). Under the circumstances, granting Defendant’s Motion at this juncture would not only cause an undue delay, it would cause a prejudicial delay. *See USX Corp. v. Barnhart*, 395 F.3d 161, 169 (3d Cir. 2004) (holding that “denial of leave was not an abuse of discretion where the motion was filed three years after the complaint was filed.”); *see also Cureton*, 252 F.3d at 273 (“[A]t some point, the delay [in filing a motion to amend] will become ‘undue,’ placing an unwarranted burden on the court, or will become ‘prejudicial,’ placing an unfair burden on the opposing party.”)(citation omitted)); *Lorenz v. CSC Corp.*, 1 F. 3d 1406, 1414 (3d Cir. 1993) (three-year lapse between filing of complaint and proposed amendment was “unreasonable” delay where plaintiff had opportunities to amend). Accordingly, Defendant’s Motion to Amend will be

denied.¹

An appropriate Order follows.

¹Plaintiff files a Cross-Motion To File A Third Amended Complaint should we grant Defendant's Motion. (Doc. No. 49 at 5.) Because we deny Defendant's Motion, Plaintiff's Motion also will be denied.

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AND NOW, this 29th day of July, 2005, upon consideration of Defendant Interstate Credit and Collection, Inc.'s Motion For Leave To File An Amended Answer And Affirmative Defenses To Plaintiff's Second Amended Complaint Pursuant To Federal Rule Of Civil Procedure 15(a) (Doc. No. 47, 03-CV-1037) and Plaintiff Errol James' Opposition To Defendant's Motion For Leave To File An Amended Answer And Cross-Motion For Leave To File A Third Amended Complaint (Doc. No. 49, 03-CV-1037), it is ORDERED that both Motions are DENIED.

IT IS SO ORDERED.

BY THE COURT:

S:/R. Barclay Surrick, Judge