

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION**

**ENTERED ON DOCKET  
OCT 11 2006**

<b>IN THE MATTER OF:</b>	:	<b>CASE NUMBERS</b>
	:	
TERRANCE OWENS,	:	BANKRUPTCY CASE
	:	NO. 04-17420-WHD
Debtor.	:	
<hr style="width: 40%; margin-left: 0;"/>		
ORLANDERS LOONEY	:	
	:	
Plaintiff,	:	ADVERSARY PROCEEDING
	:	NO. 05-1706
v.	:	
	:	
TERRANCE OWENS,	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 7 OF THE
Defendant.	:	BANKRUPTCY CODE

**ORDER**

On August 21, 2006, Orlanders Looney (hereinafter the "Plaintiff") filed an amended complaint in the above-captioned adversary proceeding. On August 30, 2006, Terrance Owens (hereinafter the "Debtor") objected to the amendment. The Court will consider the filing of the amended complaint to be a motion seeking leave to file an amended complaint.

The Debtor filed a voluntary petition under Chapter 13 of the Bankruptcy Code on August 31, 2004, which was later converted to a case under Chapter 7. On February 22, 2005, the Plaintiff filed a complaint against the Debtor seeking a determination that a debt arising from the lease of real property owned by the Plaintiff is nondischargeable under section 523(a)(2)(A) and that the Debtor's discharge should be denied under section 727(a)(4)

and (a)(5). The Debtor filed an answer to the complaint on March 7, 2005. The amended complaint seeks to add a claim for attorney's fees and costs of litigation.

Rule 15 of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Rule 7015 of the Federal Rules of Bankruptcy Procedures, governs amended pleadings. *See* FED. R. CIV. P. 7015. In pertinent part, Rule 15 provides:

(a) A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served . . . Otherwise, a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be given freely when justice so requires.

FED. R. CIV. P. 7015(a). Inasmuch as the Plaintiff filed his amended complaint after the Debtor answered the complaint, the Plaintiff cannot amend his complaint without leave of the Court or the written consent of the Debtor, which the Debtor has not given.

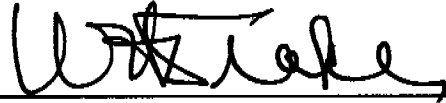
A trial court has considerable discretion when determining whether to grant leave to amend a complaint. *See Jameson v. The Arrow Co.*, 75 F.3d 1528, 1534-35 (11th Cir. 1996). "Although '[l]eave to amend shall be freely given when justice so requires,' a motion to amend may be denied on 'numerous grounds' such as 'undue delay, undue prejudice to the defendants, and futility of the amendment.'" *Brewer-Giorgio v. Producers Video, Inc.*, 216 F.3d 1281, 1284 (11th Cir. 2000); *see also Foman v. Davis*, 371 U.S. 178, 181-82 (1962).

The Plaintiff has failed to provide any explanation as to why the amended complaint should be permitted, and the amended complaint lacks any specificity as to the basis for the claim for attorney's fees. Accordingly, the Court concludes that the Motion should be, and

hereby is, **DENIED** without prejudice.

**IT IS ORDERED.**

At Newnan, Georgia, this 11 day of October, 2006.

A handwritten signature in black ink, appearing to read "W. Drake", written over a horizontal line.

W. HOMER DRAKE, JR.

UNITED STATES BANKRUPTCY JUDGE