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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

CASE NO. 06-69117

Travis Dwight Frazier,

CHAPTER 7

Debtor.

JUDGE MASSEY

First American Title Insurance Company,

Plaintiff,

v.

ADVERSARY NO. 06-9100

Travis Dwight Frazier,

Defendant.

ORDER GRANTING PLAINTIFF'S MOTION TO AMEND THE COMPLAINT

Plaintiff filed the complaint initiating this adversary proceeding on November 28, 2006. Plaintiff seeks a determination that a debt allegedly owed to it by Defendant is nondischargeable pursuant to sections 523(a)(2) and 523(a)(6) of the Bankruptcy Code. On December 22, 2006, Defendant filed an answer to the complaint. On March 19, 2007, Plaintiff filed a motion to amend its complaint. Defendant, who is appearing pro se, has not responded to Plaintiff's motion.

After a responsive pleading has been filed, "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 freely given when justice so requires." Fed. R. Civ. P. 15(a), made applicable in adversary proceedings by Fed. R.

Bankr. P. 7015. Factors a court should consider in determining whether to grant leave to amend include “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” *Foman v. Davis*, 371 U.S. 178, 182 (1962). The Eleventh Circuit has stated that “courts should generously allow amendments even when the plaintiff does not have the right to amend the complaint.” *Williams v. Bd. of Regents*, 477 F.3d 1282, 2007 U.S. App. LEXIS 2945, *13 (11th Cir. 2007).

Plaintiff seeks to amend the complaint to discuss in greater detail the circumstances giving rise to Defendant’s allegedly fraudulent conduct that forms the basis of Plaintiff’s 523(a)(2)(A) claims. Plaintiff filed its motion to amend within four months of Defendant’s answer— after limited discovery but before the entry of a pretrial order. Hence, Plaintiff’s motion to amend does not suggest any undue delay or dilatory motive. Additionally, Defendant, who has not voiced any opposition to this motion, will not be prejudiced by the allowance of Plaintiff’s amendment.

Accordingly, it is

ORDERED that Plaintiff’s motion to amend the complaint is GRANTED. The Clerk is directed to serve a copy of this order on Plaintiff’s counsel and Defendant.

Dated: April 5, 2007.



JAMES E. MASSEY
U.S. BANKRUPTCY JUDGE