

**IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

BETTY PARMER

Plaintiff,

vs.

Civil Action No.: 14-C-374

Presiding Judge: Christopher C. Wilkes

Resolution Judge: Russell M. Clawges Jr.

**UNITED BANK, INC., and
RANDALL WILLIAMS
Defendants.**

ORDER DENYING MOTION TO AMEND COMPLAINT

This matter came before the Court pursuant to Plaintiff's Motion to Amend Complaint. The matter has been fully briefed and is submitted for decision.

Prior to filing this action, Plaintiff sued Mitchell Brozik, Brandon Kupec, and others alleging many of the same facts which appear in the original Complaint. On April 21, 2014, Plaintiff filed the instant suit against Defendants United Bank and Mr. Williams, alleging negligence, breach of fiduciary duty, and conspiracy regarding a loan she closed and which was funded April 19, 2012. Plaintiff's Motion, filed on February 27, 2015, contends that the Complaint should be amended to correct grammatical deficiencies. A review of the proposed amended complaint shows numerous new allegations and a new claim for fraud.

Defendant has objected, arguing that the instant Motion to Amend has been filed in order to avoid the statute of limitations issue highlighted by the Defendant's previous Motion to Dismiss, which at the time of briefing was outstanding. Further, Defendant asserts that Plaintiff's dilatory action justifies denying the Motion before the Court.

While this Court recognizes the strong preference for adjudication of a controversy on the merits, and freely gives leave to amend when justice so requires, this preference is not without limitations.

The liberality allowed in the amendment of pleadings pursuant to Rule 15(a) of the West Virginia Rules of Civil Procedure does not entitle a party to be dilatory in asserting claims or to neglect his or her case for a long period of time. Lack of diligence is justification for a denial of leave to amend where the delay is unreasonable, and places the burden on the moving party to demonstrate some valid reason for his or her neglect and delay.

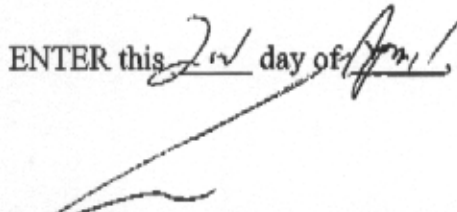
State ex rel. Vedder v. Zakaib, 217 W. Va. 528, 530, 618 S.E.2d 537, 539 (2005).

Here, the Plaintiff has failed to show any compelling reason to amend the Complaint and has failed to offer any valid reason for delay in seeking the amendment. Further, the previous Motion to Dismiss was denied on March 18, 2015. Accordingly, all factual allegations raised in the proposed amended complaint may be addressed in discovery.

THEREFORE, the Court hereby DENIES Plaintiff's Motion to Amend Complaint. The Court notes the objections and exceptions of the parties to any adverse ruling herein. The Court directs the Circuit Clerk to distribute attested copies of this Order to all counsel of record and the Business Court Division Central Office, Berkeley County Judicial Center, 380 W. South Street, Martinsburg, West Virginia 25401, or via email at Business.Court@courtsww.gov.

ENTER this 2nd day of April, 2015.

ENTERED April 2, 2015
DOCKET LINE #: 57
JEAN FRIEND, CIRCUIT CLERK


CHRISTOPHER C. WILKES, JUDGE
BUSINESS COURT DIVISION