

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>KEVIN R. STEWART,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 20-2461-JAR-GEB</b>
	)	
<b>UNITED PARCEL SERVICE, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	
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**ORDER**

This matter is before the Court on Defendant United Parcel Service, Inc.’s motion for leave to file an Amended Answer (**ECF No. 25**). As noted in the motion, Plaintiff declined to consent to amendment. However, the motion was filed April 30, 2021, making Plaintiff’s response deadline May 14, 2021. No response has been filed, and the Court may grant the motion as uncontested without further notice pursuant to D. Kan. Rule 7.4(b).

Additionally, in its discretion, the Court finds the balance of factors weigh in favor of amendment as analyzed under Fed. R. Civ. P. 15(a)(2), and justice requires amendment.<sup>1</sup>

**IT IS THEREFORE ORDERED** that Defendant United Parcel Service, Inc.’s

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<sup>1</sup> The court considers a number of factors in deciding whether to allow an amendment, including timeliness, prejudice to the other party, bad faith, and futility of amendment. *Minter v. Prime Equip. Co.*, 451 F.3d 1196, 1204 (10th Cir. 2006) (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)); *see also Monge v. St. Francis Health Ctr., Inc.*, No. 12–2269–EFM–JPO, 2013 WL 328957, at \*2 (D. Kan. Jan. 10, 2013), *report and recommendation adopted*, 2013 WL 328986 (D. Kan. Jan. 29, 2013). Rule 15(a)(2) provides leave “shall be freely given when justice so requires,” and the decision to allow an amendment is within the sound discretion of the court. *See J. Vangel Elec., Inc. v. Sugar Creek Packing Co.*, No. 11–2112–EFM, 2012 WL 5995283, at \*2 (D. Kan. Nov. 30, 2012) (citing *Panis v. Mission Hills Bank*, 60 F.3d 1486, 1494 (10th Cir. 1995)).

motion for leave to file an Amended Answer (**ECF No. 25**) is **GRANTED**. Defendant shall file its First Amended Answer no later than **May 31, 2021**.

**IT IS SO ORDERED.**

Dated at Wichita, Kansas this 18th day of May, 2021.

s/ Gwynne E. Birzer  
GWYNNE E. BIRZER  
United States Magistrate Judge