

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

DAVIS & STERLING GROUP, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 21-2119-JWL-GEB
)	
ACUITY, A MUTUAL INSURANCE)	
COMPANY,)	
)	
Defendant.)	
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ORDER

This matter is before the Court on Plaintiff Davis & Sterling Group, LLC’s motion for leave to file its Second Amended Complaint. (**ECF No. 19.**) The motion was filed June 25, 2021, making Defendant’s response deadline July 9, 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.¹

IT IS THEREFORE ORDERED that Plaintiff Davis & Sterling Group, LLC’s

¹ 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 its Second Amended Complaint (**ECF No. 19**) is **GRANTED**.

Plaintiff shall file its Second Amended Complaint no later than **August 4, 2021**.

IT IS SO ORDERED.

Dated at Wichita, Kansas this 20th day of July, 2021.

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