

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Kareem James Roberts v. PennyMac Financial Services and Daniel S. Perotti

Roberts · No. 2:24-cv-9995 (MCA) (SDA) · Decided March 10, 2026

SUMMARY

The United States District Court for the District of New Jersey grants Kareem James Roberts’s motion for leave to file a second amended complaint under Federal Rule of Civil Procedure 15. The court finds no undue delay, bad faith, or undue prejudice and declines to resolve defendants’ futility arguments at the amendment stage.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Stacey D. Adams
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	March 10, 2026
DOCKET	2:24-cv-9995 (MCA) (SDA)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to file a second amended complaint before the entry of a pretrial scheduling order. Defendants opposed primarily on futility grounds and argued that a related state foreclosure action required litigation in state court.
STANDARD OF REVIEW	Motions to amend filed before entry of a pretrial scheduling order are governed by Federal Rule of Civil Procedure 15, which requires that leave to amend be freely given when justice so requires. An amendment may be denied for undue delay, bad faith or dilatory motive, undue prejudice, repeated failure to cure deficiencies, or futility. Futility is evaluated under the standard applicable to a Rule 12(b)(6) motion to dismiss.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court opinion
PARTIES	Kareem James Roberts v. PennyMac Financial Services, Daniel S. Perotti

TOPICS

[motion to amend](#) [pleadings](#) [civil procedure](#) [foreclosure](#)

PRACTICE AREAS

[civil procedure](#) [real estate](#)

QUESTIONS PRESENTED

1. Whether Plaintiff should be granted leave under Federal Rule of Civil Procedure 15 to file a second amended complaint.
2. Whether the court should resolve Defendants' futility arguments in the context of the motion to amend.
3. Whether undue delay, bad faith, undue prejudice, or repeated failure to cure deficiencies warranted denial of leave to amend.

HOLDINGS

1. Leave to amend must be freely given when justice so requires, and the court granted Plaintiff leave to file a second amended complaint because the record did not show undue delay, bad faith, undue prejudice, repeated failure to cure deficiencies, or other grounds warranting denial.
2. The court declined to conduct a detailed futility analysis because Defendants' dispositive arguments were better suited to a motion to dismiss that could be filed after Plaintiff amended the complaint.

KEY QUOTATIONS

“motions to amend filed prior to the entry of a pretrial scheduling order are governed by Fed. R. Civ. P. 15, which requires the court to “freely give leave when justice so requires.””

“an amendment is futile if it “is frivolous or advances a claim or defense that is legally insufficient on its face.””

FACTUAL BACKGROUND

Plaintiff's first amended complaint was twenty-nine pages long and contained numerous unclear claims and allegations. The proposed second amended complaint reduced the pleading to eight pages, removed unnecessary theories, identified five counts, and sought to substitute PennyMac Loan Services, LLC for the existing defendants. No discovery had occurred and no initial pretrial scheduling conference had been held.

PROCEDURAL HISTORY

Plaintiff filed the initial complaint in Middlesex County Superior Court, and Defendants removed the action to federal court. The district court dismissed the original complaint while granting leave to amend under Federal Rule of Civil Procedure 8. After Plaintiff filed a first amended complaint, Defendants moved to dismiss it. Plaintiff then filed a second amended complaint without leave; that filing was stricken, and Plaintiff was directed either to obtain consent or move for leave to amend. The magistrate judge granted the motion for leave and directed Plaintiff to file a clean copy by March 13, 2026.

DISPOSITION

other

CASES CITED

- DLJ Mortg. Cap., Inc. v. Sheridan, 975 F.3d 358, 369 (3d Cir. 2020)
- Foman v. Davis, 371 U.S. 178, 182 (1962)
- Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002)
- Mullin v. Balicki, 875 F.3d 140, 149-50 (3d Cir. 2017)
- Harrison Beverage Co. v. Dribeck Imps., Inc., 133 F.R.D. 463, 468-69 (D.N.J. 1990)
- In re Burlington Coat Factory Sec. Litig., 114 F.3d 1410, 1434 (3d Cir. 1997)
- Colombo v. Bd. of Educ. for the Clifton Sch. Dist., No. 11-cv-0785, 2016 WL 6403081, at *2 (D.N.J. Oct. 27, 2016)
- James v. Superior Ct. of N.J., No. 21-cv-16769, 2022 WL 4449382, at *2 (D.N.J. Sept. 22, 2022)
- S.M. v. Freehold Reg'l High Sch. Dist. Bd. Of Educ., No. 22-cv-107, 2022 WL 4226354, at *3 (D.N.J. Sept. 13, 2022)
- Travelers Cas. & Sur. Co. v. Becton Dickinson & Co., No. 14-cv-4410, 2017 WL 349376, at *2 (D.N.J. Jan. 24, 2017)

OPINION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY KAREEM JAMES ROBERTS, Docket No. 2:24-cv-9995 (MCA) (SDA) Plaintiff, WHEREAS OPINION AND ORDER v. March 10, 2026 PENNYMAC FINANCIAL SERVICES and DANIEL S. PEROTTI, Defendants. STACEY D. ADAMS, United States Magistrate Judge. THIS MATTER having come before this Court by way of the Motion for Leave to File a Second Amended Complaint (the “Motion”) filed by Plaintiff Kareem James Roberts (“Plaintiff”) (ECF No. 35); and Defendants PennyMac Financial Services, Inc. and Daniel S. Perotti (together “Defendants”) having opposed the Motion (ECF No. 38); and Plaintiff having filed a reply (ECF No. 40); and WHEREAS, Plaintiff, proceeding pro se, filed his initial Complaint in Middlesex County Superior Court on September 17, 2024.

(ECF No. 1). Defendants removed this case to federal court on October 23, 2024 (ECF No. 1) and subsequently filed a Motion to Dismiss. (ECF No. 4). On June 9, 2025, the Honorable Madeline Cox Arleo, U.S.D.J. granted Defendants’ Motion to Dismiss, but granted Plaintiff leave to file an amended complaint that complied with Fed. R. Civ. P. 8. (ECF No. 21). WHEREAS, Plaintiff timely filed his First Amended Complaint on July 1, 2025, which is the operative complaint.

(ECF No. 22). WHEREAS, on July 30, 2025, Defendants filed a Motion to Dismiss Plaintiff’s First Amended Complaint. (ECF No. 25). WHEREAS, on January 7, 2026, Plaintiff filed a Second Amended Complaint without leave. (ECF No. 32). Due to several procedural defects with the

filing, the Amended Complaint was stricken, Plaintiff was directed to seek Defendants' consent to the proposed amended pleading prior to filing a new motion and, if Defendants refused to consent, Plaintiff was granted leave to file a motion to amend.

(ECF No. 34). This Motion for leave to file a Second Amended Complaint (ECF No. 35) followed. WHEREAS, given the dismissal of Plaintiff's original complaint and subsequent motion practice with regard to the proposed amended Complaint, the Court has not conducted an initial pretrial scheduling conference nor has any discovery has taken place. WHEREAS, Plaintiff seeks leave to file a Second Amended Complaint to "clarify and streamline the claims in this action" as it "removes unnecessary theories, focuses on statutory claims, and presents a clearer factual record." (ECF No. 35 at 1, 2).

The proposed Second Amended Complaint seeks to remove the current Defendants and names a new defendant – PennyMac Loan Services, LLC – as well as condenses Plaintiff's claims. (ECF No. 35). Plaintiff's First Amended Complaint (ECF No. 22) is twenty-nine pages in length with numerous unclear claims and allegations.

However Plaintiff's proposed Second Amended Complaint has been reduced to eight pages in length and contains five clearly identified counts. (ECF No. 35). WHEREAS, motions to amend filed prior to the entry of a pretrial scheduling order are governed by Fed. R. Civ. P. 15, which requires the court to "freely give leave when justice so requires." The Third Circuit has adopted a "liberal" approach to amendments of pleadings.

DLJ Mortg. Cap., Inc. v. Sheridan, 975 F.3d 358, 369 (3d Cir. 2020). A court may deny a motion to amend only where there is (1) undue delay; (2) bad faith or dilatory motive; (3) undue prejudice; (4) repeated failures to cure deficiencies; or (5) futility of amendment. Foman v. Davis, 371 U.S. 178, 182 (1962); Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir.

1984). These factors "are not exhaustive, allowing a court to ground its decision, within reason, on consideration of additional equities, such as judicial economy/burden on the court and the prejudice denying leave to amend would cause to the plaintiff." Mullin v. Balicki, 875 F. 3d 140, 149-50 (3d Cir. 2017).

However, the most important factor is prejudice to the non-moving party. Id. (citation and quotation omitted). WHEREAS, Defendants' primary basis for opposing the Motion is futility, as well as the fact that there is a related foreclosure action pending in state court (and Defendants argue the entire matter should therefore be litigated in state court). (ECF No. 38 at 1-2).

WHEREAS, an amendment is futile if it "is frivolous or advances a claim or defense that is legally insufficient on its face." Harrison Beverage Co. v. Dribeck Imps., Inc., 133 F.R.D. 463, 468- 69 (D.N.J. 1990) (quoting 6 Wright, Miller & Kane, Federal Practice & Procedure § 1487 at 637-642 (2d ed. 1990)).

To determine whether an amendment is insufficient on its face, the Court employs the standard applied to Rule 12(b)(6) motions to dismiss. In *re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir. 1997). Futility arguments are dispositive arguments that are better suited for consideration in the context of a motion to dismiss. See *Colombo v. Bd. of Educ. for the Clifton Sch.*

Dist., No. 11-cv-0785, 2016 WL 6403081, at *2 (D.N.J. Oct. 27, 2016) (citations omitted) (“In the interests of judicial economy and in the absence of undue prejudice, the Court may decline to engage in a detailed futility analysis where the Court finds that these arguments are better suited for consideration in the context of a motion to dismiss.”). WHEREAS, the Court, therefore, declines to address Defendants’ dispositive arguments in the context of a motion to amend, especially considering that Defendants may re-raise all of their arguments in any forthcoming motion to dismiss following Plaintiff’s amendment.

See *James v. Superior Ct. of N.J.*, No. 21-cv-16769, 2022 WL 4449382, at *2 (D.N.J. Sept. 22, 2022); *S.M. v. Freehold Reg’l High Sch. Dist. Bd. Of Educ.*, No. 22-cv-107, 2022 WL 4226354, at *3 (D.N.J. Sept. 13, 2022); *Travelers Cas. & Sur. Co. v. Becton Dickinson & Co.*, No. 14-cv-4410, 2017 WL 349376, at *2 (D.N.J. Jan. 24, 2017). WHEREAS, the Court further finds no undue delay, bad faith, or undue prejudice in light of the procedural history of this litigation, as explained briefly above.

The Court does not find that Plaintiff unduly delayed seeking amendment of the Complaint. Although Plaintiff had one prior amendment, the First Amended Complaint was filed in response to Judge Arleo’s Order which granted Plaintiff leave to do so. (ECF No. 21). Further, there is no prejudice in terms of prolonging the discovery process because discovery has not yet commenced.

Finally, the Court does not find that there is any indication of bad faith. To the contrary, one could argue that Plaintiff’s conduct in simplifying his complaint with less claims has promoted judicial efficiency and made it ultimately easier for the Court to decide the inevitable Motion to Dismiss; and for good cause shown: IT IS, on this 10th day of March, 2026, hereby ORDERED as follows:

1.

Plaintiff’s Motion for Leave to File a Second Amended Complaint (ECF No. 35) is GRANTED. 2. Plaintiff shall file a clean copy of the Second Amended Complaint no later than March 13, 2026. 3. Defendants shall respond to the Second Amended Complaint within the time frame required by applicable Court Rules. 4.

The Clerk is directed to terminate the Motion pending at ECF No. 35. SO ORDERED. /s Stacey D. Adams STACEY D. ADAMS, U.S.M.J. Orig: Clerk cc: Parties Hon. Madeline Cox Arleo, U.S.D.J.

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