

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

**AM Data Service, Inc., and Richard Miller v. Funding Circle USA, Inc.**

No. 25-cv-01165-RMR-KAS, United States District Court for the District of Colorado (June 2, 2026)

SUMMARY

The United States District Court for the District of Colorado grants Plaintiffs’ motion for leave to file an amended complaint under Federal Rules of Civil Procedure 16(b) and 15(a)(2). The court finds good cause, concludes that amendment is not shown to be futile or unduly prejudicial, lifts the discovery stay, and directs the parties to propose amended scheduling deadlines.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                              |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Colorado                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Kathryn A. Starnella                                                                                                                                                                                                                                                                                         |
| JURISDICTION          | United States District Court for the District of Colorado                                                                                                                                                                                                                                                    |
| DECIDED               | June 2, 2026                                                                                                                                                                                                                                                                                                 |
| DOCKET                | 25-cv-01165-RMR-KAS                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Plaintiffs moved under Federal Rule of Civil Procedure 15(a)(2) for leave to file an amended complaint after the scheduling-order deadline for amending pleadings had passed. The court granted the motion and lifted the discovery stay.                                                                    |
| STANDARD OF REVIEW    | A motion to amend filed after a scheduling-order deadline is evaluated first under Federal Rule of Civil Procedure 16(b)'s good-cause standard and then under Rule 15(a)(2)'s liberal amendment standard. Application of Rule 16(b) and decisions on leave to amend are committed to the court's discretion. |
| PRECEDENTIAL VALUE    | Unpublished district court order; persuasive value only.                                                                                                                                                                                                                                                     |
| PARTIES               | AM Data Service, Inc., Richard Miller v. Funding Circle USA, Inc.                                                                                                                                                                                                                                            |

TOPICS

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## PRACTICE AREAS

Civil procedure

Commercial litigation

Data privacy and cybersecurity

## QUESTIONS PRESENTED

1. Whether Plaintiffs established good cause under Federal Rule of Civil Procedure 16(b) to seek amendment after the scheduling-order deadline.
2. Whether leave to amend should be granted under Federal Rule of Civil Procedure 15(a)(2) despite arguments concerning futility, untimeliness, and undue prejudice.

## HOLDINGS

1. Plaintiffs demonstrated good cause because they sought amendment by the deadline set by the district judge after the court first identified the pleading deficiencies and they had timely sought leave to amend in their objection to the recommendation.
2. Leave to amend should be granted because Plaintiffs made a good-faith effort to address the identified pleading deficiencies, Defendant did not establish bad faith, dilatory motive, or undue prejudice, and any alleged futility could appropriately be addressed on a subsequent Rule 12(b)(6) motion.

## KEY QUOTATIONS

*“First, a court considers whether the moving party demonstrates good cause pursuant to Rule 16(b) of the Federal Rules of Civil Procedure. Second, a court weighs whether the amendment should be allowed under Rule 15(a).” (II)*

*“Rather, it focuses on the diligence of the party seeking leave to modify the scheduling order to permit the proposed amendment.” (II)*

*“The court should freely give leave [to amend] when justice so requires.” (II)*

*“The Court finds good cause for Plaintiffs to amend the operative Complaint [#1].” (III)*

*“To the extent that Plaintiffs’ allegations concerning traceability of the alleged injury to the data breach are still deficient—and that amendment is therefore futile—that is a question that courts in this District often prefer to address on a Rule 12(b)(6) motion to dismiss.” (III)*

## FACTUAL BACKGROUND

Plaintiffs, a commercial lender's customers, alleged that third-party threat actors accessed Funding Circle's computer networks and stole Plaintiffs' sensitive information and identities. The proposed amended complaint added allegations that the threat actors used Plaintiffs' information to execute fraudulent financing and direct-deposit agreements and knew to impersonate Funding Circle because they obtained Plaintiffs' information from Funding Circle. Discovery had been stayed while the district judge considered the prior recommendation on the motion to dismiss.

## PROCEDURAL HISTORY

Plaintiffs filed an action concerning an alleged data breach of Funding Circle's network. Funding Circle moved to dismiss for lack of Article III standing, and the magistrate judge recommended dismissal because Plaintiffs had not sufficiently alleged misuse of their information or nonspeculative traceability; the district judge adopted the recommendation and allowed Plaintiffs to seek leave to amend by a specified deadline. Plaintiffs timely filed the present motion, which the magistrate judge granted.

## DISPOSITION

other

## CASES CITED

- Hamric v. Wilderness Expeditions, Inc., 6 F.4th 1108, 1118 (10th Cir. 2021)
- Colo. Visionary Acad. v. Medtronic, Inc., 194 F.R.D. 684, 687 (D. Colo. 2000)
- Bylin v. Billings, 568 F.3d 1224, 1231-32 (10th Cir. 2009)
- Foman v. Davis, 371 U.S. 178, 182 (1962)
- Frank v. U.S. West, Inc., 3 F.3d 1357, 1365 (10th Cir. 1993)
- Jenkins v. Associated Wholesale Grocers, Inc., No. 24-4039-DDC-GEB, 2025 WL 708574, at \*3 (D. Kan. Mar. 5, 2025)
- Retzloff v. Jacobs Ent., Inc., No. 24-cv-03538-PAB-KAS, 2026 WL 21233, at \*5 (D. Colo. Jan. 4, 2026)
- Hirt v. Unified Sch. Dist. No. 287, 308 F. Supp. 3d 1157, 1168 (D. Kan. 2018)
- Nordwald v. Brightlink Commc'ns, LLC, No. 20-2528-JWL-GEB, 2021 WL 4399488, at \*3 (D. Kan. Sept. 23, 2021)