

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Empire Staple Co. v. SouthernCarlson, Inc. and James J. Wydra, Jr.

Empire Staple · No. 23-cv-02200-DDD-CYC · Decided December 19, 2025

SUMMARY

The United States District Court for the District of Colorado granted Empire Staple Co.’s motion for leave to amend its complaint to add a claim for exemplary damages under Colorado law. The court held that the plaintiff established good cause under Rule 16, satisfied Rule 15, and presented prima facie proof of a triable issue of willful and wanton conduct under Colo. Rev. Stat. § 13-21-102.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Cyrus Y. Chung
JURISDICTION	United States District Court for the District of Colorado
DECIDED	December 19, 2025
DOCKET	23-cv-02200-DDD-CYC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to amend its complaint to add a claim for exemplary damages under Colorado Revised Statutes section 13-21-102 after the scheduling-order deadline for amending pleadings had passed. Defendants opposed the motion.
STANDARD OF REVIEW	Leave to amend after a scheduling-order deadline requires good cause under Federal Rule of Civil Procedure 16(b)(4), and leave under Rule 15(a)(2) is generally freely given unless the opposing party establishes undue delay, undue prejudice, bad faith or dilatory motive, failure to cure deficiencies, or futility. A proposed exemplary-damages claim under Colorado law additionally requires prima facie proof of a triable issue under Colorado Revised Statutes section 13-21-102(1.5)(a).
PRECEDENTIAL VALUE	district court order; precedential status not stated
PARTIES	Empire Staple Co. v. SouthernCarlson, Inc., James J. Wydra, Jr.

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QUESTIONS PRESENTED

1. Whether plaintiff established good cause under Federal Rule of Civil Procedure 16(b)(4) to amend after the scheduling-order deadline.
2. Whether justice required leave to amend under Federal Rule of Civil Procedure 15(a)(2), notwithstanding defendants' assertions of undue delay and prejudice.
3. Whether plaintiff presented prima facie proof of a triable issue of exemplary damages under Colorado Revised Statutes section 13-21-102.
4. Whether plaintiff's failure initially to discuss Rules 15 and 16 warranted summary denial of the motion.

HOLDINGS

1. Plaintiff established good cause to modify the scheduling-order deadline because discovery supplying the prima facie evidence for the exemplary-damages claim continued after the deadline, and plaintiff moved within a reasonable period after obtaining materially relevant evidence.
2. Leave to amend was appropriate because defendants did not establish undue delay, undue prejudice, bad faith, or futility.
3. Plaintiff's failure initially to address Rules 15 and 16 did not warrant summary denial because the parties fully briefed the issue and authority suggested that section 13-21-102 may govern exemplary-damages amendments.
4. Plaintiff established prima facie proof of a triable issue of exemplary damages because the evidence, viewed favorably to plaintiff, supported an inference of willful and wanton conduct.

KEY QUOTATIONS

"A party seeking leave to add an exemplary-damages request after the scheduling-order deadline to amend pleadings has passed must show (1) good cause to modify the deadline pursuant to Federal Rule of Civil Procedure 16(b)(4); (2) that justice requires granting leave to amend pursuant to Rule 15(a)(2); and (3) prima facie proof of a triable issue of exemplary damages pursuant to Section 13-21-102(1.5)(a)." (at 3)

"The Court would need to find 'undue delay,' with 'emphasis on the adjective,' to deny this Motion under Rule 15." (at 8)

"This, along with other evidence the plaintiff submitted, suffices to establish a prima facie case for exemplary damages." (at 9)

FACTUAL BACKGROUND

Empire Staple alleged that Wydra, while still employed by Empire Staple and after denying that he intended to leave, accepted employment with competitor SouthernCarlson and forwarded Empire Staple customer and account information to SouthernCarlson. Discovery continued after the scheduling-order deadline, including

supplemental disclosures and a deposition of SouthernCarlson's Rule 30(b)(6) witness. The evidence indicated that the information was proprietary and not publicly available, and that SouthernCarlson employees received and used information supplied by Wydra.

PROCEDURAL HISTORY

Empire Staple sued its former employee, James J. Wydra, Jr., and SouthernCarlson, Inc., Wydra's subsequent employer, asserting various claims. SouthernCarlson moved to dismiss and Wydra answered; the motion to dismiss was denied. After the scheduling order set January 8, 2024 as the amendment deadline, the parties conducted discovery and filed pending summary-judgment motions. Plaintiff then moved to amend, and the magistrate judge granted the motion.

DISPOSITION

other

CASES CITED

- Castle v. Nolan, No. 20-cv-02481-DDD-STV, 2023 WL 11903564, at *2, *4 (D. Colo. July 21, 2023)
- Affordify, Inc. v. Medac, Inc., No. 19-cv-02082-CMA-NRN, 2020 WL 6290375, at *4 (D. Colo. Oct. 27, 2020)
- Midtown Invs., LP v. Auto-Owners Ins. Co., 641 F. Supp. 3d 1066, 1072 n.2 (D. Colo. 2022)
- Gutierrez v. Cobos, 841 F.3d 895, 902 (10th Cir. 2016)
- Headrick v. Rockwell Int'l Corp., 24 F.3d 1272, 1278 (10th Cir. 1994)
- Uhl v. Progressive Direct Ins. Co., 765 F. Supp. 3d 1176, 1187 (D. Colo. 2025)
- Gorsuch, Ltd., B.C. v. Wells Fargo Nat'l Bank Ass'n, 771 F.3d 1230, 1240 (10th Cir. 2014)
- Am. Ins. Co. v. Pine Terrace Homeowners Assoc., No. 20-cv-00654-DDD-MDB, 2022 WL 5240648, at *3-*4 (D. Colo. Oct. 6, 2022), recommendation adopted, 2022 WL 17976699, at *3 (D. Colo. Nov. 23, 2022)
- Schimek v. Owners Ins. Co., No. 16-cv-02197-PAB-STV, 2017 WL 3621833, at *3 (D. Colo. Aug. 23, 2017)
- Calderón v. City and Cnty. of Denver, No. 18-cv-00756-PAB-CYC, 2025 WL 938494, at *2 (D. Colo. Mar. 28, 2025)
- Husky Ventures, Inc. v. B55 Invs., Ltd., 911 F.3d 1000, 1021 (10th Cir. 2018)
- Foman v. Davis, 371 U.S. 178, 182 (1962)
- Watkins v. Action Care Ambulance, Inc., No. 07-cv-02598-PAB-BNB, 2010 WL 3834348, at *2 (D. Colo. Sept. 24, 2010)
- Minter v. Prime Equip. Co., 451 F.3d 1196, 1204-08 (10th Cir. 2006)
- Duncan v. Manager, Dep't of Safety, City & Cnty. of Denver, 397 F.3d 1300, 1315 (10th Cir. 2005)
- Openwater Safety IV, LLC v. Great Lakes Ins. SE, 435 F. Supp. 3d 1142, 1151 (D. Colo. 2020)
- Graham v. State Farm Mut. Auto. Ins. Co., No. 19-cv-00920-REB-NYW, 2020 WL 9720368, at *7 (D. Colo. June 30, 2020), recommendation adopted, 2021 WL 2092813, at *1 (D. Colo. Mar. 31, 2021)
- Franklin Sav. Corp. v. United States, 180 F.3d 1124, 1128 n.6 (10th Cir. 1999)

- Stamp v. Vail Corp., 172 P.3d 437, 449-50 (Colo. 2007)
- RCHFU, LLC v. Marriott Vacations Worldwide Corp., No. 16-cv-01301-PAB-GPG, 2018 WL 3055772, at *4 (D. Colo. May 10, 2018)
- Coors v. Sec. Life of Denver Ins. Co., 112 P.3d 59, 66 (Colo. 2005)
- W. Fire Truck, Inc. v. Emergency One, Inc., 134 P.3d 570, 578-79 (Colo. App. 2006)

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