

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WASHINGTON

**Kaili Timperley v. Safeco Insurance Company of America, Brothers
Restoration, LLC, and GuideOne Insurance Company**

Timperley · No. 2:25-CV-00326-MKD · Decided March 31, 2026

OPINION

Timperley

PER CURIAM.

1 FILED IN THE

U.S. DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

2 Mar 31, 2026

SEAN F. MCAVOY, CLERK

3 4

5 UNITED STATES DISTRICT COURT

6 EASTERN DISTRICT OF WASHINGTON

7 KAILI TIMPERLEY, and individual, No. 2:25-CV-00326-MKD 8 Plaintiff, ORDER
GRANTING

DEFENDANT’S MOTION FOR

9 vs. DISMISSAL AND PLAINTIFF’S

MOTION TO AMEND

10 SAFECO INSURANCE COMPANY OF

AMERICA, a foreign insurance ECF Nos. 14, 16 11 company; and BROTHERS
RESTORATION, LLC, Bond No. 12 A270093095, a foreign limited liability company; and
GUIDEONE 13 INSURANCE COMPANY, a foreign insurance company, 14 Defendants. Before
the Court is Defendant GuideOne Insurance Company’s Motion for 15 Dismissal Under FRCP
12(b)(6) for Failure to State a Claim, ECF No. 14, and 16 Plaintiff’s Motion for Leave of Court to
Amend the Second Amended Complaint, 17 ECF No. 16. For the reasons stated below, the Court
grants both motions. 18

BACKGROUND

19 On August 21, 2025, Plaintiff filed an Amended Complaint for Damages in 20 Spokane County
Superior Court naming GuideOne as a defendant and alleging 1 claims under the Insurance Fair
Conduct Act and Consumer Protection Act as well 2 as alleging claims for bad faith violations,
breach of contract, negligent claims 3 handling, negligence, suit on registration bond, and
declaratory judgment. ECF

4 No. 1-1 at 1. On August 26, 2025, Defendant Safeco Insurance Company of
5 America removed the case to the United States District Court for the Eastern 6 District of
Washington. ECF No. 1. 7 On January 9, 2026, Defendant GuideOne moved to dismiss the claims
8 against it, arguing it was named as a defendant in error. ECF No. 14 at 2. 9 GuideOne contends
that it informed Plaintiff's counsel on September 9, 2025, via 10 email that GuideOne was the
incorrect bonding company and referenced the 11 Washington State Contractor Database which
listed the correct bonding company. 12 ECF Nos. 14 at 4; 15-1 at 2. That same day, Plaintiff's
counsel's firm responded 13 confirming that GuideOne was named in error and that the complaint
would be 14 amended. ECF No. 15-2 at 2. On November 4, 2025, the complaint had not been 15
amended and GuideOne emailed Plaintiff's counsel requesting the amendment be 16 made. ECF
No. 15-3 at 2. Plaintiff's counsel responded that he would work on 17 amending the complaint
that day. Id. GuideOne asserts that the complaint was 18 never amended so it moved to dismiss
the claims against it. ECF No. 14 at 6. 19 Plaintiff did not respond to Defendant GuideOne's
motion to dismiss. 20 1 On February 12, 2026, Plaintiff moved to amend her complaint to remove
2 GuideOne as a party, because GuideOne is the incorrect bonding company, and 3 add the proper
bonding company. ECF No. 16. Defendants did not respond to 4 Plaintiff's Motion to Amend but
informed the Court that they did not oppose the 5 motion.

6 LEGAL STANDARD

7 In the Ninth Circuit, a district court may grant a motion to dismiss as 8 unopposed pursuant to a
local rule that permits the granting of a motion for failure 9 to respond. *Ghazali v. Moran*, 46 F.3d
52, 53-54 (9th Cir. 1995). LCivR 7(e) 10 provides that the "failure to comply with the
requirements" of LCivR 7(c) "may be 11 deemed consent to the entry of an order adverse to the
party who violates" it. 12 Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, a
party 13 may amend their complaint with the court's leave. "The court should freely give 14 leave
when justice so requires." Id. "The decision whether to grant or deny a 15 motion to amend
pursuant to Rule 15(a) rests in the sole discretion of the trial 16 court." *Stanton v. Battelle Energy
All., LLC.*, 83 F. Supp. 3d 937, 949 (D. Idaho 17 2015). However, "outright refusal to grant the
leave without any justifying reason 18 appearing for the denial is not an exercise of discretion; it
is merely abuse of that 19 discretion and inconsistent with the spirit of the Federal Rules." *Foman
v. Davis*, 20 371 U.S. 178, 182 (1962). 1 "[T]he Supreme Court identified four factors relevant to
whether a motion 2 for leave to amend pleadings should be denied: undue delay, bad faith or
dilatory 3 motive, futility of amendment, and prejudice to the opposing party." *United States 4 v.
Webb*, 655 F.2d 977, 980 (9th Cir. 1981) (citing *Foman*, 371 U.S. at 182). These 5 factors "are not
of equal weight." Id. (citing *Howey v. United States*, 481 F.2d 6 1187, 1191 (9th Cir. 1973)).
"[D]elay alone no matter how lengthy is an 7 insufficient ground for denial of leave to amend." Id.
"Only where prejudice is 8 shown or the movant acts in bad faith are courts protecting the judicial
system or 9 other litigants when they deny leave to amend a pleading." Id. (quoting *Howey*, 10
481 F.2d at 1191) (citations omitted).

11 DISCUSSION

12 The parties agree that GuideOne was incorrectly named as a party and is not 13 the correct bonding company. ECF Nos. 14 at 2-3; 16 at 2-3. Further, Plaintiff 14 failed to respond to GuideOne's motion, ECF No. 16, and acknowledges that 15 GuideOne is the incorrect bonding company. Pursuant to LCivR 7(e), the Court 16 grants GuideOne's Motion for Dismissal Under FRCP 12(B)(6) for Failure to State 17 a Claim, ECF No. 14. 18 Defendants do not oppose Plaintiff's Motion to for Leave of Court to Amend 19 the Second Amended Complaint, ECF No. 16. Considering that the motion is 20 unopposed and that the parties agree that GuideOne is the incorrect bonding 1 company, the Court finds that all four factors weigh in favor of allowing leave to 2 amend. Accordingly, the Court grants Plaintiff's Motion for Leave of Court to 3 Amend the Second Amended Complaint. 4 Accordingly, IT IS ORDERED: 5 1. Defendant GuideOne Insurance Company's Motion for Dismissal 6 Under FRCP 12(b)(6) for Failure to State a Claim, ECF No. 14, and 7 Plaintiff's Motion for Leave of Court to Amend the Second Amended 8 Complaint, ECF No. 16, are GRANTED. 9 2. Plaintiff shall file the Second Amended Complaint by April 6, 2026. 10 3. All claims against GuideOne Insurance Company are DISMISSED. 11 4. Defendant GuideOne is directed to file a declaration and 12 documentation in support of their request for costs and fees by April 13 13, 2026. Plaintiff may file a response one week thereafter. 14 IT IS SO ORDERED. The District Court Executive is directed to file this 15 order and provide copies to counsel. 16 DATED March 31, 2026. 17 s/Mary K. Dimke

18 MARY K. DIMKE

UNITED STATES DISTRICT JUDGE

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