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**FILED**  
DEC 21 2012  
Harry G. Carroll  
J.S.C.

By: Lorraine K. Rak / Nicholas Kant  
Deputy Attorneys General



SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, BERGEN COUNTY  
DOCKET NO. BER-C-225-12

JEFFREY S. CHIESA, Attorney General of the State  
of New Jersey, and ERIC T. KANEFSKY, Acting  
Director of the New Jersey Division of Consumer  
Affairs,

Plaintiffs,

v.

AAA RELIABLE, INC. d/b/a RELIABLE, INC.; OLD  
RELIABLE CONSTRUCTION LIMITED  
LIABILITY COMPANY a/k/a OLD RELIABLE  
CONSTRUCTION and d/b/a RELIABLE, INC.;  
SULEJMAN LITA a/k/a SUL LITA, individually and  
as owner, officer, director, manager, employee,  
representative and/or agent of AAA RELIABLE, INC.  
and OLD RELIABLE CONSTRUCTION LIMITED  
LIABILITY COMPANY and d/b/a RELIABLE, INC.;  
JANE AND JOHN DOES 1-20, individually and as  
owners, officers, directors, shareholders, founders,  
managers, agents, servants, employees, representatives  
and/or independent contractors of AAA RELIABLE,  
INC. and/or OLD RELIABLE CONSTRUCTION  
LIMITED LIABILITY COMPANY; and XYZ  
CORPORATIONS 1-20,

Defendants.

Civil Action

**ORDER GRANTING  
LEAVE TO FILE A  
FIRST AMENDED  
VERIFIED COMPLAINT**

THIS MATTER HAVING BEEN OPENED TO THE COURT by plaintiffs Jeffrey S. Chiesa, Attorney General of the State of New Jersey and Eric T. Kanefsky, Acting Director of the New Jersey Division of Consumer Affairs ("Plaintiffs"), on a Motion for an Order granting Plaintiffs leave to file a First Amended Verified Complaint ("Motion"), and the Court having considered the papers submitted and oral argument, ~~if any~~, herein, and for good cause shown: *For the REASONS STATED ON THE RECORD AND ANNEXED HERETO*  
IT IS on this 01 day of DECEMBER, 2012,

**ORDERED** that Plaintiffs' Motion for leave to file a First Amended Verified Complaint is hereby granted; and

**IT IS FURTHER ORDERED** that Plaintiffs' First Amended Verified Complaint shall be filed with the Court; and

**IT IS FURTHER ORDERED** that within seven (7) days of the date hereof, Plaintiffs shall serve copies of the within Order and the First Amended Verified Complaint, pursuant to the Rules Governing the Courts of the State of New Jersey ("Rules"), upon counsel for defendants AAA Reliable, Inc. d/b/a Reliable, Inc., Old Reliable Construction Limited Liability Company a/k/a Old Reliable Construction and d/b/a Reliable, Inc., and Sulejman Lita a/k/a Sul Lita;

**IT IS FURTHER ORDERED** that within seven (7) days of the date hereof Plaintiffs shall serve copies of the within Order and the First Amended Verified Complaint, pursuant to the Rules,

upon defendants A Safeway Improvements, Inc., A Safeway Construction, Inc., A Safeway Construction, LLC and Liman Lita a/k/a Lee Lita;



HON. HARRY G. CARROLL, J.S.C.

In accordance with the required statement of R. 1:6-2(a), this motion was ✓ opposed  
       unopposed.

**MOTION DISPOSITION SHEET**

CASE NAME: JEFFREY S. CHIESA, Attorney General  
vs.  
AAA RELIABLE, INC., et al.

DOCKET NO.: C-225-12

PLAINTIFF ATTORNEY: Lorraine K. Rak, D.A.G./Nicholas Kent, D.A.G.

DEFENDANT ATTORNEY: Podvey, Meanor, Catenacci, Hildner, Coccoziello & Chattman, P.C.;  
Jay I. Lazerowitz, Esq.

MOTION DATE: December 21, 2012

ORDER: Attached

Plaintiff moves for leave to file an Amended Complaint so as to add 4 additional defendants based on information received by plaintiff that allegedly establishes factual linkage to the three existing defendants who are the subject of plaintiff's initial Complaint. Defendants AAA Reliable, Inc. and Sulejman Lita oppose the motion on the basis that the proposed amendment would result in undue prejudice and would be futile.

Rule 4:9-1 provides that leave to amend pleadings "shall be freely given in the interest of justice." The New Jersey Supreme Court has made it clear that "Rule 4:9-1 requires that motions for leave to amend be granted liberally" and that "the granting of a motion to file an amended complaint always rests in the court's sound discretion." Kernan v. One Washington Park Urban Renewal Assocs., 154 N.J. 437, 456-57 (1998); see also Notte v. Merchants Mut. Ins. Co., 185 N.J. 490, 501 (2006). This Court's exercise of discretion requires the undertaking of a two-pronged inquiry: "whether the non-moving party will be prejudiced, and whether granting the amendment would nonetheless be futile." Notte, supra, 185 N.J. at 501. In Notte, the Court agreed with the Appellate Division's holding that there was no prejudice to defendants when "the newly asserted claims are based on the same underlying facts and events set forth in the original

pleading.” Ibid. The Notte Court stated that, “while motions for leave to amend are to be determined without consideration of the ultimate merits of the amendment, those determinations must be made in light of the factual situation existing at the time each motion is made.” Ibid. Finally, the Court explained that “courts are free to refuse leave to amend when the newly asserted claim is not sustainable as a matter of law. In other words, there is no point to permitting the filing of an amended pleading when a subsequent motion to dismiss must be granted.” Ibid.

While motions to amend “are ordinarily afforded liberal treatment, the factual situation in each case must guide the court’s discretion, particularly where the motion is to add new claims or new parties late in the litigation.” Bonczek v. Carter-Wallace, Inc., 304 N.J. Super. 593 (App. Div. 1997). A motion to amend is properly denied where its merits are marginal and allowing the amendment would unduly protract the litigation. See Stuchin v. Kasirer, 237 N.J. Super. 604, 609 (App. Div. 1990). Here Plaintiff seeks to add additional defendants, including Liman Lita who allegedly used funds of defendant AAA Reliable for his own use, and three other entities who allegedly have been used interchangeably in the advertisement and sale of home improvements, are related to AAA Reliable, and have allegedly engaged in violations of the CFA and related statutes and regulations. Hence at this time the court finds a sufficient linkage of these claims/parties to the initial Complaint. Additionally, at this pleading stage of these proceedings the court cannot conclude that plaintiff’s proposed Amended Complaint on its face fails to state a claim, especially since defendants’ arguments, which are not supported by any Certification, go more to the factual sufficiency of plaintiff’s claims.

Accordingly then at this point the court is unable to conclude that the proposed amendment would be futile.

Additionally, Plaintiff's initial Complaint was filed in this matter on July 27, 2012. The matter is relatively young and ~~no pre-trial~~ or trial date had previously been set. Hence the proposed amendment would not serve to unduly delay, complicate or protract these proceedings or otherwise prejudice the defendants.

Accordingly, the Court concludes that the liberal standards governing requests to amend pleadings have been satisfied and Plaintiffs' motion is therefore granted.

Dated: December 21, 2012



Hon. Harry G. Carroll, J.S.C.