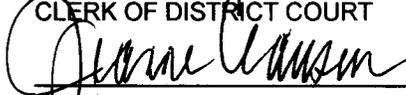


FILED 1/27/2023

AT 1:55 O'Clock P. M

CLERK OF DISTRICT COURT


Deputy

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI**

CHRISTOPHER LUCK, as guardian and conservator for ETHEL LUCK, (formerly captioned, AMY CLEMMONS, as Guardian for ETHEL LUCK),)
Plaintiff,)
vs.)
SARAH ROHEL,)
Defendant.)
_____)

Case No. **CV28-19-1782**

**MEMORANDUM DECISION AND
ORDER GRANTING PLAINTIFF'S
MOTION TO AMEND COMPLAINT**

I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND.

On March 13, 2017, Ethel Luck ("Luck") and defendant Sarah Rohel ("Rohel") were involved in an automobile accident. *Luck v. Rohel*, 171 Idaho 51, ___, 518 P.3d 350, 352 (2022). On March 13, 2019, the last day before the applicable statute of limitations ran, Amy Clemmons (Clemmons), Luck's daughter, signed and filed a Complaint, *pro se*, against Rohel on Luck's behalf, which started this lawsuit. *Id.* Clemmons listed herself as plaintiff, "as Guardian for ETHEL LUCK." Complaint 1. Clemmons had a durable power of attorney signed by Luck, but had not been appointed Luck's guardian by any court. On April 16, 2019, Clemmons, *pro se*, filed an Amended Complaint signed by both Clemons and Luck, which also alleged Luck had Alzheimer's. Am. Compl., ¶¶ 1.1, 1.2; Mem. Decision and Order Granting Def.'s Mot. to Strike and Mot to Dismiss 2. On April 18, 2019, Rohel filed a Motion to Dismiss Pursuant to Special Appearance. On June 24, 2019, this Court dismissed Clemmons' original Complaint because it was signed in violation of Idaho Rule of Civil Procedure

11(a) and Idaho Code § 3-104. 518 P.3d at 352; Mem. Decision and Order Granting Def.'s Mot. to Strike and Mot to Dismiss 22-24. Dismissal was due to the fact that Luck did not sign the Complaint, and while Clemmons signed the Complaint, she was an attorney licensed in Washington but not licensed in Idaho. *Id.* This Court found that the proposed amended complaint by Clemmons would not relate back to the filing date of the original Complaint, because the original Complaint was a nullity. Mem. Decision and Order Granting Def.'s Mot. to Strike and Mot to Dismiss 24-31. On October 23, 2019, Clemmons timely filed a notice of appeal. *Id.*

On May 15, 2020, Christopher Luck ("Christopher") was appointed Luck's guardian and conservator. 518 P.3d at 354. Christopher then moved to intervene in this action on Ethel's behalf, which the Idaho Supreme Court granted. *Id.* In his new capacity, Christopher additionally "filed an action against Amy Clemmons for the unauthorized practice of law, Kootenai County Case No. CV28-21-1859. The action was stayed pending the ruling of the [Idaho] Supreme Court on the appeal of this matter." Reply to Def.'s Resp. in Opp'n. to Mot. to Amend the Compl. and Mot. to Remove Amy Clemmons from the Caption and Service Contacts Herein ("Reply Br.") 2.

On September 26, 2022, the Idaho Supreme Court issued its decision on appeal. The Idaho Supreme Court affirmed this Court's finding that I.R.C.P. 17 did not permit Clemmons to act *pro se* on behalf of Luck (518 P.3d 350, 355) and this Court's finding that Luck's incapacity did not toll the statute of limitations. 518 P.3d at 358. The Idaho Supreme Court reversed this Court's application of the rule of nullity to strike Clemmons' Complaint, vacated this Court's decision dismissing Clemmons' Complaint, and remanded this matter to allow this Court "to exercise its discretion and determine whether to allow Christopher to cure the improper signature." 518 P.3d at 355-59. In doing so, the Idaho Supreme Court held that in applying nullity, the undersigned District

Judge should not have relied upon the Idaho Supreme Case of *Black v. Ameritel Inns, Inc.*, 139 Idaho 511, 81 P.3d 416 (2003), because the sanctions under I.R.C.P. 11 changed after that decision. 518 P.3d at 355-58.

On December 5, 2022, Christopher filed a Motion to Amend Complaint and Memorandum in Support thereof. On January 18, 2023, Rohel filed Defendant's Response in Opposition to Plaintiff's Motion to Amend Complaint and Declaration of Jaron A. Robinson in Support of Defendant's Response in Opposition. On January 20, 2023, Christopher Luck filed his Reply to Defendant's Response in Opposition to Motion to Amend Complaint and Motion to Remove Amy Clemmons from the Caption and Service Contacts Herein. A hearing on this matter was held on January 24, 2023, following which this Court took this matter under advisement.

The Court notes that when this case was previously before this Court, Lloyd Herman was counsel for plaintiff. Now, Monica Flood Brennan has filed all recent materials on behalf of plaintiff. However, Monica Flood Brennan has not filed a substitution of counsel, nor has she filed a notice of appearance. Accordingly, a copy of this decision is being sent to Lloyd Herman and Monica Flood Brennan.

II. STANDARD OF REVIEW

After a responsive pleading is served, "a party may amend a pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires...." I.R.C.P. 15(a). "A court should liberally grant a motion to amend a complaint." *DAFCO LLC v. Stewart Title Guar. Co.*, 156 Idaho 749, 755, 331 P.3d 491, 497 (2014) (quoting *Iron Eagle Development, LLC v. Quality Design Systems, Inc.*, 138 Idaho 487, 492, 65 P.3d 509, 514 (2003)).

“When a party moves to amend an improperly signed pleading, written motion, or other paper to cure a violation of Rule 11(a), a district court has the discretion to permit a party to cure the signature, depending on the circumstances of the particular case.” *Luck*, 518 P.3d at 357. In reviewing an exercise of discretion, this Court must consider: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason. *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018).

III. ANALYSIS

The new plaintiff in this matter, Christopher Luck (“Christopher”), as guardian and conservator for Ethel Luck (“Luck”), moves this court for leave to file its Amended Complaint. Mem. In Supp, of Mot. to Amend. 1. Christopher argues that:

I.R.C.P. §15 allows for liberal leave to amend Complaints as long as the litigation is still in its infancy and there is no prejudice to the defense. *Christensen Family Trust v. Christensen*, 133 Idaho 866, 993 P.2d 1197 (1999). Here, the litigation is still in its infancy as far as the ruling of the Supreme Court. The Amended Complaint is no surprise to the defense. It is nearly identical to the first and second Complaints filed. However, when previous counsel appeared, it was unclear who was being represented, Amy Clemmons or Ethel Luck. Thereafter, no Motion for Leave to file an Amended Complaint was ever filed by counsel for either Amy Clemmons or Ethel Luck. Since that time, Christopher Luck, Ethel’s son, has become the guardian and conservator for Ethel Luck. As such, he was granted leave to intervene on behalf of the real party in interest pursuant to I.R.C.P. §17.

. . . . The guardian and conservatorship Orders were already file [sic] in this matter when the case was pending before the Supreme Court.

Id. at 2-3.

In opposition, defendant Rohel argues that allowing leave for Christopher to file the Amended Complaint would: (1) be against the interests of justice, because it would give full effect to an unlawful practice of law and inexcusable neglect and would adopt prior plaintiff’s unreasonable failure to move to amend; (Def.’s Resp. In Opp’n. 4-6); (2)

be futile because the Amended Complaint would not relate back to Clemmons' Complaint (*Id.* at 6-9), and that there is a concurrent pending action that would more equitably resolve all rights at issue. Def.'s Resp. In Opp'n 2.

Specially, Rohel argues that this Court should "explicitly address what consideration was given to the knowing unlawful practice of law. . . there should be no doubt that the unlawful practice militates against granting the motion to amend, because such practice is against the interests of justice and against the law." Def.'s Resp. In Opp'n 5. Additionally, "[t]o allow amendment now would simply gloss over [the] unreasonable delay [of Amy Clemmons to include Ethel Luck as a real party in interest] and is another factor militating against granting amendment." *Id.* at 6. Further, Rohel asserts that Luck's Amendment would not relate back to Clemmons's Complaint:

Under Idaho law, interventions will relate back to an original complaint only if there is a community of interest or privity of contract between the original plaintiff and the petitioner in intervention. See, *Duff*, *supra*.

In the appellate intervention, Luck noted that he had a conflict of interest with Clemmons and "cannot step into her shoes in this appeal . . ." *Dec. of Jaron A. Robinson* ¶ 3, Ex. 5 at 2. Thus, [Christopher] Luck has disclaimed a community of interest with Clemmons. The lack of a community of interest is also shown by the fact that both Clemmons and [Christopher] Luck were separate parties at the same time in the course of the appeal. *Id.*, ¶ 9.

Because [Christopher] Luck disclaimed a community of interest or privity with Clemmons, [Christopher] Luck's amendment cannot relate back to the original complaint. If the proposed Amended Complaint will not relate back to the original Complaint, then such amendment would not be timely under the statute of limitations and the amendment futile.

.....
If amendment to add a real party in interest is not made within a reasonable time, then such amendment will not relate back to the original complaint. See, I.R.C.P. 15(c)(3), I.R.C.P. 17(a)(3).

.....
The plaintiff must first show a difficulty in determining the proper party to bring the action. In *Conda*, there was a commercial transaction where it was difficult to ascertain which business entity held the contractual rights at issue. But in this personal injury action the real party in interest was clear: Ethel Luck was the real party in this action. There

are no interlocking or overlapping business entities with contract rights involved.

The plaintiff must next show that an understandable and honest mistake was made. The naming of Clemmons instead of Luck can't be considered understandable or honest mistake. Clemmons maintained below that as Luck's guardian she was the real party in interest. However, a guardian only brings an action for another person's benefit, and in that capacity will never be a "real party in interest." Cf. I.R.C.P. 17(a)(1). It is not understandable that Clemmons, an attorney, would believe that she was the real party in interest, instead of her mother Ethel Luck. Additionally, Clemmons was never duly appointed guardian of Ethel Luck prior to her initial filing of this action. Since she never received a guardianship appointment, her self-identification as a guardian was not honest. Because there was no understandable and honest mistake in naming Clemmons as plaintiff, relation back to the original filing is not possible. Plaintiff should not reap benefits from Clemmons's unlawful practice of law.

Finally, the plaintiff must show that he is invoking I.R.C.P. 17 for some reason other than to escape a limitations period. See *Tingley*, 125 Idaho at 92, 867 P.2d at 966. The rule is not a provision to be distorted by parties to circumvent the limitations period. *Id.* Christopher Luck admitted on appeal that the statute of limitations ran on March 13, 2019. The first time a duly appointed guardian of Ethel Luck took any legal action for her personal injury case was when Christopher Luck filed the appellate intervention on July 31, 2020.

Id. at 6-9.

Finally, Rohel argues that Clemmons will not, "face the consequences if Luck's motion to amend is granted" because the practical effect of amending the complaint, "would almost certainly be the dismissal or limitation of the malpractice action by Luck against Clemmons, which is the only apparent corrective action taken against Clemmons for her unlawful acts to this point." Def.'s Resp. in Opp'n. 10.

Luck's chance of a meaningful and earlier recovery against Clemmons is better in the malpractice case than her chance of recovery against Rohel in this case, and Clemmons would not escape the consequences of her unlawful acts. The symmetry and equities of justice would be more evenly balanced for all involved parties if this Court dismisses the current improperly filed matter and lets the more developed malpractice case proceed against Clemmons.

Id.

In reply, Christopher argues that that Amy Clemmons' sanction for unauthorized practice of law could or should be imposed in the companion case of the *Estate of Ethel Luck v. Amy Clemmons*. Reply Br. 2. Additionally asserting that the relation back is allowed in this matter:

Christopher Luck has a community of interest with Ethel Luck, the real party in interest herein. Amy Clemmons was never the real party in interest to begin with, and should have replaced Ethel Luck as the Plaintiff in the case. She did not do so, however, the Supreme Court's decision indicates that this error was not fatal to the case, in saying that the Court should practice leniency in allowing liberal modifications to erroneous pleadings that are not necessarily fatal. . . .

As defendant points out, in *Tingley*, relation back is allowable when there was a mistake in naming the original proper party. *Tingley v. Harrison*, 125 Idaho 86, 91-92, 867 P.2d 960 (1994). The mistake must also be reasonable. Amy Clemmons did not make a reasonable mistake herein, but Ethel Luck made a reasonable mistake, so to speak. Now that Christopher Luck has been replaced as the real party in interest and has been appointed guardian and conservator of Ethel Luck, he is in a position to fix the mistake and relate the Amended Complaint back to the original filing. Ethel Luck is blameless herein, so she should not suffer the consequences of bad decision making on the part of both Amy Clemmons and Lloyd Herman, who appeared not for Ethel Luck, but for Amy Clemmons in the lawsuit.

Id. at 3.

"Under I.R.C.P. 15(a) a party may amend his pleading once as a matter of course at any time before a responsive pleading is served. Once an answer has been filed, however, a party may amend a pleading only by leave of court." *PHH Mortg. v. Nickerson*, 160 Idaho 388, 395–96, 374 P.3d 551, 558–59 (2016) (quoting *DAFCO LLC v. Stewart Title Guar. Co.*, 156 Idaho 749, 755, 331 P.3d 491, 497 (2014) (internal citations and quotations omitted)).

In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of the allowance of the

amendment, futility of amendment, etc.—the leave sought should, as the rules require, ‘be freely given.’

Id. (quoting *Clark v. Olsen*, 110 Idaho 323, 326, 715 P.2d 993, 996 (1986)).

“Timeliness alone is not a sufficient reason to deny a motion to amend.” *DAFCO LLC*, 156 Idaho at 756, 331 P.3d at 498. “The time between filing the original complaint and the amended complaint is not decisive.... [T]imeliness is important in view of the *Foman* factors such as undue delay, bad faith, and prejudice to the opponent.” *Id.* (quoting *Carl H. Christensen Family Trust v. Christensen*, 133 Idaho 866, 871, 993 P.2d 1197, 1202 (1999)). “Appropriate factors to consider include whether the proposed amendment would delay upcoming hearings or trial, whether the motion to amend comes after court-imposed deadlines have passed, and whether substantial work has already been completed.” *PHH Mortgage*, 160 Idaho at 396, 374 P.3d at 559 (quoting *DAFCO LLC*, 156 Idaho at 756–57, 331 P.3d at 498–99.)

As a preliminary matter, this Court finds that the unlawful practice of law and malpractice claims will be properly handled in the companion case of *Estate of Ethel Luck v. Amy Clemmons*, and would not be properly handled in this personal injury case against Rohel.

This Court analyzes the three factors listed by the Idaho Supreme Court in *PHH Mortgage* as follows. First, the filing of the Amended Complaint by Christopher would not **delay** any upcoming hearings or trial. This matter is currently set for court trial before this Court beginning August 14, 2023. According to Christopher, the Amended Complaint is “nearly identical” to the Complaint filed; however, it clears up who is being represented: Ethel Luck. Mem. In Supp. of Mot. to Amend. 2. For that same reason, it would not prejudice the defendant Rohel, as the substance of the Complaint remains the same. Second, there have been no **court imposed deadlines** which have passed. On

November 22, 2022, this Court issued its Scheduling Order, Notice of Trial Setting and Initial Pretrial Order, setting trial to begin on August 14, 2023. No deadlines have passed. Third, granting leave for filing of the Amended Complaint would not **frustrate any substantial work done** in this case, because as both parties have noted, this case is not far along. (Def. Resp. in Opp'n 10: ". . .the parties in the malpractice case have already named witnesses and exchanged some discovery, which is much further along than in this case." and Mem. In Supp. of Mot. to Amend: ". . .the litigation is still in its infancy as far as the ruling of the Supreme Court."). Christopher's appearance in this matter comes after this Court's previous decision, meaning that Christopher has not previously failed to cure the deficiency before.

A final consideration posed to this Court is Rohel's argument the Amended Complaint would not relate back to Clemmons' Complaint. Def. Resp. in Opp'n 6-9. As such, Rohel argues the amendment would still be "futile." *Id.* at 9. This Court finds the argument of "futility" is inapt at this point. This Court finds "relation back" is the real inquiry that must be made at this time by this Court. This Court notes the specific mandate of the Idaho Supreme Court: "...we remand this matter to allow the district court to exercise its discretion and determine whether to allow Christopher to cure the improper signature." 518 P.3d 350, 357. This Court finds if Christopher's Amended Complaint relates back, he must be allowed to cure the improper signature of Clemmons.

Idaho Rule of Civil Procedure 15(c)(1) provides that an amendment to a pleading relates back to the date of the original pleading when:

- (A) the law that provides the applicable statute of limitations allows relation back;
- (B) the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out, or attempted to be set out, in the original pleading; or
- (C) the amendment changes the party or the naming of the party against whom a claim is asserted, if Rule 15(c)(1)(B) is satisfied and If, within the

period provided by Rule 4(b)(2) for serving the summons and complaint, the party to be brought in by amendment:

- (i) received such notice of the action that it will not be prejudiced in defending on the merits; and
- (ii) knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity.

I.R.C.P. 15(c)(1)(A)-(C). This Court finds as a matter of law that Christopher's Amended Complaint satisfies I.R.C.P. 15(c)(1)(B), because "the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out, or attempted to be set out, in the original pleading." "The amendment" (Christopher's Amended Complaint) "asserts a claim...that arose out of the conduct, transaction, or occurrence set out, or attempted to be set out, in the original pleading" (it asserts the exact same claims as the original Complaint, it alleges the exact same conduct of defendant Rohel injured and damaged Ethel Luck).

"The case law generally provides that the petition in intervention will relate back to the time of the original complaint where there is a community of interest or privity of contract between the original plaintiff and the petitioner in intervention."¹ *Duff v. Draper*, 96 Idaho 299, 306, 527 P.2d 1257, 1264 (1974) (citing to *Anderson v. Ferguson*, 56 Idaho 554, 57 P.2d 325 (1936)). Privity exists where an entity not a party to the previous action is "so identified in interest with" an entity that was a party to the previous litigation "that he represents precisely the same right in respect to the subject matter involved." *Silver Eagle Mining Co. v. State*, 153 Idaho 176, 180, 280

¹ Rohel misstates this law in their briefing- claiming that these are the "only" times that it will relate back. Def.'s Resp. in Opp'n to Pl.'s Mot. to Amend Complaint 6. The next line in *Duff* provides that "[t]here are other possible reasons why the statute of limitations may not have run at the time the petition in intervention was filed." See also *Winn v. Campbell*, 145 Idaho 727, 731 184 P.3d 852, 865 discussing that the Idaho Supreme Court "has given some indication that tolling of the statute is possible."

P.3d 679, 683 (2012) (quoting *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1052–53 (9th Cir.2005)).

Rohel argues that in appellate intervention, Christopher “noted he had a conflict of interest with Clemmons and ‘cannot step into her shoes in this appeal.’” Def.’s Resp. in Opp’n to Pl.’s Mot. to Amend Complaint 6, citing Decl. of Jaron A. Robinson ¶3, Ex. 5 at 2. This Court finds it is not important whether Clemmons and Christopher are in privity. What matters is that Christopher and Ethel Luck are in privity. While Christopher disclaimed community of interest or privity with Clemmons, Christopher asserts that he does have community of interest with the real party of interest – Luck – who should have been replaced as the plaintiff in this matter. Reply Br. 3. All that is being sought to be amended is that Luck’s interests in this litigation be changed from Clemmons (who had no legal authority to represent Luck) to Christopher (who has all the legal authority he needs to represent Luck). Luck’s interest in this litigation would be properly represented by Christopher. As guardian and conservator of Luck, Christopher is in complete privity with Luck.

It additionally is argued by Rohel that the amendment was not made within a reasonable time (Def.’s Resp. in Opp’n to Pl.’s Mot. to Amend Compl. 7), to which Christopher argues the time this was on appeal to the Idaho Supreme Court should not count. Reply Br. 3. This Court agrees with Christopher. Christopher filed this motion to amend less than two months after the Idaho Supreme Court’s remmititur was filed, and less than two weeks after this Court’s scheduling conference. There has been no undue delay by Christopher. Rohel can show no prejudice during the time that this case was on appeal. No claims have been made that witnesses have died or are for some other reason unavailable. This case was in its infancy when it was appealed, and it essentially remains in its infancy at the present time. The only action taken by

this Court since the appeal, was to schedule and hold a scheduling conference, and set the matter for trial.

Further, Rohel argues that the relation back is only allowed when there was a mistake in naming the original party. Def.'s Resp. in Opp'n to Pl.'s Mot. to Amend Compl. 8-9. Christopher acknowledges that, citing *Tingley v. Harrison*, 125 Idaho 86, 91-92, 867 P.2d 960 (1994). Reply Br. 3. Christopher then immediately adds, "The mistake must also be reasonable." *Id.* That is a misstatement. *Tingle* does not require the mistake be "reasonable", but it does require the mistake be "honest." 125 Idaho at 92, 867 P.2d at 966. Rohel argues, "The naming of Clemmons instead of Luck can't be considered understandable or honest mistake." Def.'s Resp. in Opp'n to Pl.'s Mot. to Amend Compl. 8. That conclusory argument has no merit. There is no showing that Clemmons was "dishonest" in how she captioned the original complaint. Stupid? Yes. Unprofessional? Yes. But dishonest? No. Also, this Court finds Rohel's focus on Clemmons to be misplaced. The focus should be on Ethel Luck, the real party in interest, and not on Clemmons. Ethel Luck made no mistake, honest or otherwise. Clemmons made the mistake to name herself as plaintiff, and clearly did so on Ethel Luck's behalf. Ethel Luck did nothing wrong, save to trust Clemmons to do the right thing by her and not commit malpractice. Clemmons abused that trust by acting when she had no legal capacity. It is entirely appropriate for this Court to allow Christopher, who now has all the legal capacity needed to represent Ethel Luck's interest, to correct Clemmons' mistake. As Ethel Luck's present court appointed guardian and conservator, Christopher may file his Amended Complaint.

Finally, Rohel argues that Christopher must show he is invoking I.R.C.P. 17 for some other reason than to escape the limitations period. Def.'s Resp. in Opp'n to Pl.'s Mot. to Amend Compl. 9, citing *Tingly*, 125 Idaho at 92, 867 P.2d at 966. The obvious

response to that argument is that Christopher is correcting a mistake that Clemmons made. The “other reason” is that Christopher has the legal obligation to make this amendment on behalf of Ethel Luck. It is an undeniable fact that Clemmons had no legal ability to do what she did on March 13, 2019, when she signed the Complaint, and she has no legal ability at the present. Christopher has all the necessary legal ability and the “other reason” he is making this amendment to correct Clemmons’ mistake and to represent Ethel Luck as he is legally obligated to do.

While the analysis of Idaho Rule of Civil Procedure 15 and 17 do not involve fairness, this Court finds the fundamental concept of fairness must be discussed vis-à-vis Rohel’s arguments. Rohel, and her insurance company, would be over the moon if this Court adopted Rohel’s arguments and denied amendment. That is because Rohel, even though apparently at fault in causing this accident (having failed to stop at a STOP sign), would escape all liability for any damage she caused to Ethel Luck. Rohel’s insurance company would reap the windfall of being entirely relieved of its duty to defend Rohel and its duty to indemnify Rohel for her negligence. That burden would then fall upon Clemmons and her malpractice insurance company. Clemmons made a mistake, but no fairness is served by relieving Rohel of her responsibility to Ethel Luck, due solely to Clemmons’ mistake.

IV. CONCLUSION AND ORDER

For the foregoing reasons, the plaintiff’s Motion to Amend Complaint and Memorandum in Support Thereof must be granted. The “Proposed” Complaint for Damages and Demand for Jury Trial lodged with the Court on December 5, 2022, is ordered to be filed.

IT IS HEREBY ORDERED plaintiff’s Motion to Amend Complaint is **GRANTED**.

IT IS FURTHER ORDERED the Clerk of Court immediately file the Complaint for Damages and Demand for Jury Trial lodged with the Court on December 5, 2022.

Entered this 27th day of January, 2023.



John T. Mitchell, District Judge

Certificate of Service

I certify that on the _____ day of January, 2023, a true copy of the foregoing was mailed postage prepaid or was sent by interoffice mail or facsimile to each of the following:

<u>Lawyer</u>	<u>email</u>		<u>Lawyer</u>	<u>email</u>
Lloyd Herman	lloydherm@aol.com ✓		Jaron A. Robinson	jaron.robinson@libertymutual.com ✓
Monica Flood Brennan	Mbrennanpc@outlook.com ✓			



Jeanne Clausen, Deputy Clerk