

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION**

**WILLIAM F. TURNER, on behalf of  
himself and all others similarly situated,**

**Plaintiff,**

**-vs-**

**Case No. 2:05-cv-186-FtM-33DNF**

**GENERAL ELECTRIC CO.,**

**Defendant.**

\_\_\_\_\_ /

**ORDER**

This cause came on for consideration on the following motion(s) filed herein:

**MOTION: STIPULATION AND MOTION FOR LEAVE FOR  
PLAINTIFF TO FILE A SECOND AMENDED  
COMPLAINT (Doc. No. 25)**

**FILED: August 11, 2005**

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**THEREON it is ORDERED that the motion is GRANTED.**

Plaintiff is requesting leave to file a Second Amended Complaint to more precisely define the refrigerator models at issue. Defendant does not object to this request. Federal Rule of Civil Procedure 15(a) provides that after a responsive pleading is served, “a party may amend the party’s pleading only by leave of court or by written consent of the adverse party, and leave shall be freely given when justice so requires.” The decision whether to permit an amendment is within the sound discretion of the court, however, the Supreme Court has held that the words “leave shall be freely given” must be heeded. *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222 (1962)

Consequently, the Court must find a justifiable reason in denying a request for leave to amend. *Id.* “[T]he Supreme Court indicated that a court should deny leave to amend a pleading only when: (1) the amendment would be prejudicial to the opposing party, (2) there has been bad faith or undue delay on the part of the moving party, or (3) the amendment would be futile.” *Taylor v. Florida State Fair Authority*, 875 F.Supp. 812 (M.D. Fla., 1995), citing *Foman*, 317 U.S. at 182. No justifiable reasons were presented to deny leave to amend.

**IT IS FURTHER ORDERED:**

1) Plaintiff shall file his Second Amended Complaint within ten (10) days from the date of this Order.

2) Defendant shall have twenty (20) days thereafter to respond to the Second Amended Complaint.

**DONE and ORDERED** in Chambers in Ft. Myers, Florida this 12th day of August, 2005.

  
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DOUGLAS N. FRAZIER  
UNITED STATES MAGISTRATE JUDGE

Copies:  
All Parties of Record