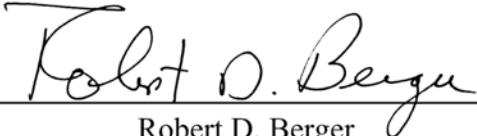




**The relief described hereinbelow is SO ORDERED.**

**SIGNED this 22nd day of February, 2019.**

  
Robert D. Berger  
United States Bankruptcy Judge

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF KANSAS**

In re:

**MATTHEW WILFRED ROBERTS and  
SHELLEY D. GARZA-ROBERTS,**

Debtors.

Case No. 18-20906  
Chapter 7

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**FREEBIRD COMMUNICATIONS, INC.,  
PROFIT-SHARING PLAN, et al.,**

Plaintiffs,

Adv. No. 18-06063

v.

**MATTHEW WILFRED ROBERTS and  
SHELLEY D. GARZA-ROBERTS,**

Defendants.

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**ORDER NUNC PRO TUNC GRANTING IN PART AND  
DENYING IN PART PLAINTIFFS' MOTION  
FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

This matter comes before the Court on plaintiffs' motion for leave to file a second amended complaint. Under Fed. R. Civ. P. 15(a)(2), this Court "should freely give leave when justice so requires." However, at 86 pages and 183 numbered paragraphs, plaintiffs' proposed Second Amended Complaint suffers from the same deficiencies as their First Amended Complaint, which this Court dismissed for failure to comply with Fed. R. Civ. P. 8. Under that rule:

- "[a] pleading that states a claim for relief must contain . . . a *short and plain* statement of the claim showing that the pleader is entitled to relief," Fed. R. Civ. P. 8(a)(2) (emphasis added); and
- "[e]ach allegation must be *simple, concise, and direct*," Fed. R. Civ. P. 8(d) (emphasis added).

As the Tenth Circuit has observed, prolixity not only prejudices defendants but also renders this Court's tasks "immeasurably more difficult." *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1162-63 (10th Cir. 2007) (citing *Mann v. Boatright*, 477 F.3d 1140, 1148 (10th Cir. 2007), and *Knox v. First Sec. Bank of Utah*, 196 F.2d 112, 117 (10th Cir. 1952)). Therefore, plaintiffs' motion is hereby granted in part and denied in part: plaintiffs may file a second amended complaint, but not the proposed version attached to their motion. As to defendants' argument regarding timeliness under Fed. R. Bankr. P. 4007(c), plaintiffs' amendment will relate back to the date of the original complaint to the extent allowed by Fed. R. Civ. P. 15(e)(1).

IT IS SO ORDERED.

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