UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

KEVIN M. BURNS and SHANNIN BURNS, Plaintiffs,	:	
v.	:	Case No. 3:16-cv-1817 (AWT)
STATE FARM FIRE AND CASUALTY COMPANY and LIBERTY MUTUAL FIRE INSURANCE COMPANY, Defendants.	:	

ORDER RE MOTION FOR LEAVE TO AMEND THE COMPLAINT

For the reasons set forth below, Plaintiffs' Motion for Leave to Amend the Complaint (Doc. No. 16) is hereby GRANTED. The plaintiffs shall docket their First Amended Complaint forthwith.

A complaint is identified in Fed. R. Civ. P. 7(a)(1) as a pleading. It is a pleading to which a responsive pleading, i.e. an answer, is required. See Rule 7(a)(2). Rule 15(a)(1) has different provisions for pleadings "to which a responsive pleading is required," see Rule 15(a)(1)(B), and other pleadings, see Rule 15(a)(1)(A). The Advisory Committee Notes to Rule 15 recognize this distinction: "[A]mended Rule 15(a)(1) extends from 20 to 21 days the period to amend a pleading to which no responsive pleading is allowed." Rule 15 2009 Advisory Committee Notes.

This point was perhaps clearer under the prior version of Rule 15(a), which provided in pertinent part:

> (1) *Amending as a Matter of Course*. A party may amend its pleading once as a matter of course:
>
> (A) before being served with a responsive pleading; or
>
> (B) within 20 days after serving the pleading if a responsive pleading is not allowed and the action is not yet on the trial calendar.

Fed. R. Civ. P. 15(a) (December 1, 2007). There is no suggestion in the 2009 Advisory Committee Notes that there was any intention to revise Rule 15(a)(1) to function in the manner suggested by the defense.

Moreover, under the reading of Rule 15(a)(1) contemplated by the defense, the plaintiffs could file a motion for leave to file an amended complaint (having missed a 21-day deadline for amending as a matter of course); have that motion be denied by the court; and then have the right to amend as a matter of course pursuant to Rule 15(a)(1)(B) once the defense files either an answer or a motion to dismiss, notwithstanding the fact that the court previously denied leave to make the same amendment.

It is so ordered.

Signed this 10th day of February, 2017, at Hartford, Connecticut.

/s/ AWT
Alvin W. Thompson
United States District Judge