

EXERCISE**MOTIONS TO AMEND PLEADINGS****Background**

You're representing a commercial real estate developer, who's suing one of its major contractors in federal court for breach of contract and fraud. You filed the complaint three months ago and your fraud claim is subject to heightened pleading standards. Opposing counsel requested additional time to file an answer or a motion to dismiss, and the court granted their request.

You've recently learned from an employee (who returned from an extended leave) additional facts that support your client's alleged damages. Also, when one of the executive committee members moved offices, he discovered he had a handwritten notepad containing the date and notes of the meeting between himself and the contractor's CFO where the alleged fraudulent misstatement was made.

The senior associate asked you to amend the complaint with the new information that you've learned.

Instructions

Come prepared to discuss the following questions:

- To amend your complaint, will you likely need to file a motion for leave to amend? Why or why not?
- How might you address Defendant's potential argument of undue delay?
- How might you address a potential prejudice argument Defendant may raise to your request to amend your fraud claim?
- Will you include an argument that your amendments aren't futile? Why or why not?
- Will you include an argument that your amendments are being made in good faith? Why or why not?