IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

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| SUNLIGHT SAUNAS, INC., | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | Case No. 04-2597-KHV |
| | ) | |
| SAUNA BY AIRWALL, et al., | ) | |
| | ) | |
| Defendants. | ) | |

**ORDER**

This matter comes before the court upon plaintiff's motion for leave to amend complaint (Doc. 82) and defendant/counter-claimant Sundance Sauna, Inc.'s motion for leave to amend counterclaim to specify prayer for punitive damages (Doc. 83). Neither of these motions have been opposed by any party and the time to do so has now expired.[1] Pursuant to D. Kan. Rule 7.4, the court ordinarily treats a motion, to which no timely response is filed, as uncontested and grants the motion without any further notice.[2]

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[1] *See* D. Kan. Rule 6.1(d)(1) ("Responses to nondispositive motions. . . shall be filed and served within 14 days.").

[2] D. Kan. Rule 7.4 provides in relevant part:

> The failure to file a brief or response within the time specified within Rule 6.1(d) shall constitute a waiver fo the right thereafter to file such a brief or response, except upon a showing of excusable neglect. . . . If a respondent fails to file a response within the time required by Rule 6.1(d), the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice.

Plaintiff's motion for leave to amend complaint (Doc. 82) seeks the court's permission for plaintiff to file its Third Amended Complaint, adding claims for negligent defamation, civil conspiracy, and piercing the corporate veil against the defendants Cobalt Multimedia, Inc., Preston Hall, Brighton Sauna, Inc., and Sundance Sauna, Inc., amend its current anti-trust claim to also bring that claim against defendant Sauna by Airwall, and add factual allegations regarding the allegedly toxic effect of plaintiff's sauna products.

Defendant/counter-claimant Sundance Sauna, Inc.'s motion to amend counterclaim, seeks the court's permission for Sundance to amend its counterclaim to specify additional facts underlying its prayer for punitive damages as required by Fed. R. Civ. P. 9(g).

As noted above, neither of these motions has been opposed by any party, and the court finds that they each substantially comply with Fed. R. Civ. P. 15 and 19, and the local rules of the District of Kansas. Accordingly, the court finds that there is good cause to permit the requested amendments and it will grant both motions for leave to amend.

**IT IS THEREFORE ORDERED:**

1. That plaintiff's motion for leave to amend complaint (Doc. 82) is hereby granted. Plaintiff is directed to file its Third Amended Complaint on or before **November 8, 2005**.

2. That defendant/counter-claimant Sundance Sauna, Inc.'s motion for leave to amend counterclaim to specify prayer for punitive damages (Doc. 83) is hereby granted. Defendant/counter-claimant Sundance Sauna, Inc. is directed to incorporate its amendment into its answer to plaintiff's Third Amended Complaint.

**IT IS SO ORDERED.**

Dated this 1st day of November, 2005, at Topeka, Kansas.

s/K. Gary Sebelius
K. Gary Sebelius
U.S. Magistrate Judge