

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

JEFFREY JACKSON and)	
DOMINIQUE MITCHELL,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 07-2128-JTM-DWB
)	
COACH, INC.,)	
)	
Defendant.)	
_____)	

MEMORANDUM AND ORDER

Before the Court is Plaintiffs' Motion for Leave to File First Amended Complaint and Demand for Jury Trial. (Doc. 19.) Defendant has not filed a response and the time to do so expired on September 14, 2007. *See* D. Kan. Rule 6.1(d)(1) (responses to non-dispositive motions are to be filed within 14 days).

The factual background of this case was summarized in the Court's order granting in part and denying in part Defendant's Motion for Protective Order. (Doc. 14.) That summary is incorporated herein by reference. In addition, the Court notes that its Scheduling Order set a deadline of August 31, 2007, to join additional parties or otherwise amend the pleadings. (Doc. 8, at III.a.) Plaintiffs filed the present

motion on that date and, thus, within the Court's deadline.

Fed. R. Civ. P. 15(a) provides that leave to amend shall be freely given when justice so requires. In the absence of any apparent or declared reason, such as undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment, leave to amend should, as the rules require, be freely given. *Foman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 230, 9 L. Ed. 2d 222 (1962); *Frank v. U.S. West, Inc.*, 3 F.3d 1357, 1365 (10th Cir. 1993).

Further, “[i]f 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.” *D.Kan. Rule 7.4*. As stated previously, Defendant did not file a response to Plaintiffs’ motion and the time to do so has expired. Plaintiffs’ motion is both unopposed and facially valid. The Court, therefore, **GRANTS** Plaintiffs’ Motion to Amend.

IT IS THEREFORE ORDERED that Plaintiffs’ Motion for Leave to File First Amended Complaint and Demand for Jury Trial is **GRANTED**. Plaintiffs shall

file their Amended Complaint in the form attached to their motion within ten (10) days of the filing of this Order.

Dated at Wichita, Kansas, on this 25th day of September, 2007.

s/ DONALD W. BOSTWICK
DONALD W. BOSTWICK
United States Magistrate Judge