

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

COLORPORT, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case 07-4093-SAC
)	
MICROBLEND TECHNOLOGIES, INC. and)	
)	
TEAM EQUIPMENT LEASING, INC.,)	
)	
Defendants.)	

ORDER

This matter comes before the court upon plaintiff's "Motion to Amend Petition" (Doc. 13).¹ Defendants have not filed a response and pursuant to D. Kan. Rule 6.1(d)(1), the time to do so has passed. Normally, "[t]he failure to file a brief or response within the time specified within Rule 6.1(d) shall constitute a waiver of 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."²

Fed. R. Civ. P. 15 controls the procedure for amending the pleadings. Rule 15(a) states, in pertinent part, that after a responsive pleading: "a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires."³ In considering whether to grant leave to amend, the court evaluates several factors

¹This motion was timely filed on October 9, 2007. *See* Scheduling Order (Doc. 11).

²*See* D. Kan. Rule 7.4

³Fed. R. Civ. P. 15(a).

including whether the amendment will cause undue delay or prejudice to the non-moving party.⁴

As the present motion is uncontested, the amendment should not cause defendants prejudice.

Accordingly, and in the interest of justice,

IT IS THEREFORE ORDERED that “Motion to Amend Petition” (Doc. 13) is granted.

The court directs the Clerk to file Attachment 1 to Doc. 13 as plaintiff’s First Amended Complaint.

IT IS SO ORDERED.

Dated this 2d day of November, 2007, at Topeka, Kansas.

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

⁴ *Little v. Reed-Prentice Div. Of Package Mach. Co.*, 131 F.R.D. 591, 593 (D. Kan. 1990) (citations omitted).