

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CORINNE E. ZIMMERS,)
)
Plaintiff,)
)
vs.)
)
STORMONT-VAIL HEALTHCARE, INC.,)
)
Defendant.)
_____)

Case No. 07-4131-RDR

ORDER

This matter comes before the court upon plaintiff's Motion to Amend Complaint (Doc. 14), seeking a one day extension to seek leave to amend her complaint and leave to amend her complaint. The present motion informs that defendant does not oppose the relief requested.

The parties' Scheduling Order established June 16, 2008 as the deadline to file any motions seeking leave to amend pleadings. Upon plaintiff's request, the court extended this deadline until June 23, 2008. On June 24, 2008, plaintiff filed the instant motion, seeking leave to amend her complaint and asking the undersigned to excuse her one-day untimely filing of the instant motion.

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.”¹ In considering whether to grant leave to amend, the court evaluates several factors including whether the amendment will cause undue delay or prejudice to the non-moving party.²

As defendant does not object to the present motion, the amendment should not cause it prejudice. Additionally, since leave to amend should be freely given, and plaintiff was merely one day outside the deadline established by this court, the court finds the untimely filing of the instant motion does not warrant a denial of plaintiff’s request.

Accordingly, and in the interest of justice,

IT IS THEREFORE ORDERED plaintiff’s Motion to Amend Complaint (Doc. 14) is granted. The court directs the Clerk to file Attachment 1 to Doc. 14 as plaintiff’s First Amended Complaint.

IT IS SO ORDERED.

Dated this 30th day of June, 2008, at Topeka, Kansas.

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

¹Fed. R. Civ. P. 15(a).

² *Little v. Reed-Prentice Div. Of Package Mach. Co.*, 131 F.R.D. 591, 593 (D. Kan. 1990) (citations omitted).