

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

HELENA CHEMICAL COMPANY)
d/b/a HELENA FINANCE,)
)
Plaintiff,)
)
v.)
)
STEVEN EDWARD HOLTHAUS,)
et al.,)
)
Defendants.)

Case No. 17-2642-CM

ORDER

This matter comes before the court upon defendant Derik S. Holthaus’ Motion to File Counterclaim (ECF No. 30). For the following reasons, this motion is granted.

Defendant filed this motion on April 19, 2018. Plaintiff has failed to file a timely response. Local Rule 7.4(b) provides that “[a]bsent a showing of excusable neglect, a party or attorney who fails to file a responsive brief or memorandum within the time specified . . . waives the right to later file such brief or memorandum.”¹ The Local Rule also states that if a party fails to timely file a responsive brief, the court considers and decides the motion as uncontested, and will usually grant the motion without further notice.² Accordingly, the court grants defendant’s motion.

IT IS THEREFORE ORDERED that defendant Derik S. Holthaus’ Motion to File Counterclaim (ECF No. 30) is hereby granted. Defendant shall file his counterclaim by May 17, 2018.

IT IS SO ORDERED.

¹ D. Kan. Rule 7.4(b).

² *Id.*

Dated this 7th day of May, 2018, at Topeka, Kansas.

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