

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION**

JOHN WARD, JR.

Plaintiff

V.

CISCO SYSTEMS, INC.

Defendant.

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No. 08-4022

JURY TRIAL DEMANDED

**PLAINTIFF’S UNOPPOSED MOTION
FOR LEAVE TO FILE AN AMENDED COMPLAINT**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW, JOHN WARD, JR., Plaintiff, and for his Motion for Leave to File Amended Complaint, pursuant to Federal Rule of Civil Procedure 15(a) and Local Rule 5.5(e), respectfully shows as follows:

1. Plaintiff seeks leave from this Court to file his First Amended Complaint. A copy of Plaintiff’s First Amended Complaint is attached hereto as Exhibit “A” as required by Local Rule 5.5(e).

2. Plaintiff seeks to amend his Original Complaint for the following reasons: (1) to reflect the fact that Richard Frenkel has been dismissed without prejudice from the above-captioned lawsuit, (2) to provide additional factual information to Defendant regarding the scope of Plaintiff’s cause of action for defamation, (3) to include new causes of action for the tort of outrage and invasion of privacy and (4) to clarify that Plaintiff is not seeking lost profit damages but is only seeking to recover general damages for harm to his reputation and for mental anguish.

3. The Court has discretion whether to grant or deny leave to amend pleadings. *Foman v. Davis*, 371 U.S. 178, 182 (1962). However, unless the purpose of an amended pleading is improper, the Supreme Court has instructed that leave to amend should be “freely given.” *Id.*

4. The amendment will not prejudice Defendant. Plaintiff has previously provided Defendant with a draft version of his Amended Complaint, including the newly added causes of action for the tort of outrage and invasion of privacy. Defendant does not oppose Plaintiff’s motion so long as Defendant is provided an opportunity to file an Amended Answer.

5. Plaintiff’s motion complies with Federal Rule of Civil Procedure 11. This motion is made in good faith and not for purposes of delay or other dilatory motive but so that justice may be done. Plaintiff and his attorneys of record have read the claims asserted in the Amended Complaint. To the best of Plaintiff’s belief the claims set forth therein are well grounded in fact and are warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, the acts forming the basis of Plaintiff’s claims are not privileged; and the claims asserted therein are not asserted for any improper purpose such as to suppress the right of free speech or right to petition government of a person or entity, to harass, or to cause unnecessary delay or to needlessly increase the cost of litigation.

6. Plaintiff’s motion conforms to this Court’s Scheduling Order permitting the filing of amended pleadings before July 17, 2009. Permitting amendment of Plaintiff’ Complaint will not hinder Defendant’s ability to take discovery concerning Plaintiff’s causes of action.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that this Court grant his leave to file his First Amended Complaint.

Respectfully Submitted,



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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on this 11th day of May, 2009, a true and correct copy of the foregoing was served electronically upon:

Richard E. Griffin
Charles Babcock
Crystal Parker
JACKSON WALKER, LLP
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Suite 1900
Houston, Texas 77010

Attorney for Defendant Cisco Systems, Inc.



Nicholas H. Patton