

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

MAUDIE COX SCIBILIA, individual and as
successor of the affairs of Scibilia Enterprises, Inc.,

Plaintiff,

-vs-

Case No. 2:09-cv-658-FtM-29SPC

GOURLEY & GOURLEY, LLC, and D. TRENT
GOURLEY, managing member,

Defendants.

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ORDER

This matter comes before the Court on the Plaintiff Maudie Cox Scibilia's Motion for Leave to Amend the Complaint (Doc. #22) filed on April 13, 2010. The Defendant filed its Response in Opposition (Doc. # 24) on April 16, 2010. The Motion is now ripe for review.

The Plaintiff seeks to add a count to its current Complaint alleging violations of the Florida Fraudulent Transfers statute Fla. Stat. § 726.195. The Defendant objects to the Amended Complaint arguing that the additional count is futile.

Under rule 15(a), a party may amend the party's pleading only by leave of court or by written consent of the adverse party after a responsive pleading has been served. Fed. R. Civ. P. 15(a); Keene v. Teco Energy Corp., 2000 WL 230243 (M.D. Fla.). No responsive pleadings have been filed by the Defendant, nor has the Plaintiff filed a prior amendment. Thus, the Plaintiff may amend as of right under the Federal Rules. Fed. R. Civ. P. 15(a).

The Defendant filed a Motion to Dismiss (Doc. # 6) on October 6, 2009. The Motion to Dismiss is now moot.

Accordingly, it is now

ORDERED:

(1) The Plaintiff Maudie Cox Scibilia's Motion for Leave to Amend the Complaint (Doc. #22) is **GRANTED**. The Clerk of the Court shall file the Amended Complaint attached as Exhibit Number 2 to the instant Motion with the Court.

(2) The Defendant, D. Trent Gourley's Motion to Dismiss for Lack of Personal Jurisdiction (Doc. # 6) is **DENIED as moot**.

DONE AND ORDERED at Fort Myers, Florida, this 19th day of April, 2010.


SHERI POLSTER CHAPPEL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record