

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

BRUCE MARTIN,

Plaintiff,

-vs-

Case No. 2:10-cv-356-FtM-36SPC

SEARS, ROEBUCK AND CO., a Foreign Profit
Corporation,

Defendant.

ORDER

This matter comes before the Court on Unopposed Motion for Leave to Amend Complaint by Interlineation (Doc. #14) filed on June 21, 2010. Also before the Court is Plaintiff's Amended Motion to Strike Defendant's Affirmative Defenses (Doc. #15) filed on June 22, 2010. Defendant filed its opposition on July 2, 2010 (Doc. #20). The Motions are now ripe for review.

The proper method to request leave to amend a complaint, pursuant to Fed. R. Civ. P. 7(b), is either to attach a copy of the proposed amended complaint to the motion or set forth the substance of the proposed amendment in such a manner that the Court will be able to assess the viability of proposed amendment. Satz v. Long, 181 F.3d 1275, 1279 (11th Cir. 1999). Plaintiff did not attach a copy of the proposed Amended Complaint, but did provide the Court with the substance of the proposed amendment. Thus, for good cause shown and because Plaintiff's Motion for Leave to Amend Complaint is unopposed, the Court will allow it. Plaintiff is directed to file his First Amended Complaint with the changes requested on or before July 9, 2010.

Because the Court has granted leave for Plaintiff to file an Amended Complaint, Plaintiff's Motion to Strike Affirmative Defenses is due to be denied as moot. Defendant must now file a new Answer or otherwise respond to the Amended Complaint. Once Defendant's Answer to the First Amended Complaint is filed, Plaintiff may challenge the affirmative defenses if he so chooses.

Accordingly, it is now

ORDERED:

- (1) Plaintiff's Unopposed Motion for Leave to Amend Complaint by Interlineation (Doc. #14) is **GRANTED**. The Plaintiff shall have up to and including July 9, 2010, to file his First Amended Complaint.
- (2) Plaintiff's Amended Motion to Strike Defendant's Affirmative Defenses (Doc. #15) is **DENIED AS MOOT**.

DONE AND ORDERED at Fort Myers, Florida, this 6th day of July, 2010.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record