

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 ADVOCARE INTERNATIONAL, L.P., a
11 Texas limited partnership,

12 Plaintiff,

13 v.

14 RICHARD PAUL SCHECKENBACH, et al.,

15 Defendants.
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Case No. C08-5332 RBL

ORDER GRANTING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT [Dkt. #311]

18 THIS MATTER comes before the Court on Plaintiff's Motion for Partial Summary Judgment [Dkt.
19 #311]. Plaintiff AdvoCare seeks summary judgment dismissal of Defendants Tai Brown, Kelli Bottolfson
20 Brown, and HerbAsia's "frivolous lawsuit" counterclaim. In April, 2009, the court denied Plaintiff's motion
21 to dismiss this claim under Rule 12 (b)(6) [Dkt. # 103]. As the Plaintiff correctly points out, the parties have
22 litigated the merits of the various claims and defenses significantly since that time. While the parties devote
23 the bulk of their submittals discussing the law of the case doctrine, the Plaintiff's contention that the litigation
24 which has occurred since that time alone demonstrates that Plaintiff's claims against these Defendants are
25 not frivolous, whether or not they ultimately prevail. On the record now before this Court, the Defendants'
26 "frivolous lawsuit" counterclaim is legally insufficient as a matter of law. The Plaintiff's Motion for Partial
27 Summary Judgment is GRANTED and the Defendants' Counterclaim is DISMISSED WITH PREJUDICE.
28 The request for sanctions is DENIED.

1 IT IS SO ORDERED.

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3 DATED this 30th day of August, 2010.

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RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE

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