

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

TRANSPORT TRUCK & TRAILER,)
INC., an Idaho Corporation; HOWELL)
OVERLAND ROAD PROPERTIES, LLC,)
an Idaho Limited Liability Company,)
TRANSPORT EQUIPMENT LEASING,)
LLC, an Idaho Limited Liability Company;)
IDAHO FREIGHTLINER, LP, an Idaho)
Limited Partnership; HOWELL GP, LLC,)
an Idaho Limited Liability Company;)
WILLARD W. HOWELL, an Individual;)
and ANGELA R. HOWELL, an Individual,)

Plaintiffs,)

v.)

FREIGHTLINER LLC, a Foreign Limited)
Liability Company; FREIGHTLINER)
CORPORATION, a Delaware)
Corporation; DAIMLERCHRYSLER)
SERVICES NORTH AMERICA LLC, a)
Michigan Limited Liability Company,)
d/b/a DAIMLERCHRYSLER SERVICES)
TRUCK FINANCE; and DOES 1 - 5,)
Inclusive,)

Defendants.)
_____)

Case No. CV-06-282-S-BLW

**MEMORANDUM
DECISION AND ORDER**

MEMORANDUM DECISION

The Court has before it a motion to amend counterclaim. Defendant

Freightliner seeks to add a claim against Willard W. Howell for personal liability under a guaranty for the counterclaims by Freightliner against plaintiff Transport Truck & Trailer Inc.

Both sides agree that because the amendment deadline in this case expired before Freightliner was obligated to file its counterclaim, the more liberal standard of Rule 15(a) applies to this motion. Defendants argue that the amendment should not be permitted under that standard because the guarantee was signed back in 1995, and Freightliner has known of it since that date. The Court disagrees. Freightliner filed this motion to amend just three months after it timely filed its original counterclaim, so there has been no undue delay. Howell's deposition has already been taken and questions were asked regarding the guarantee that forms the basis for this amendment. Plaintiffs make no claim that the amendment will cause extra discovery or is in some other way prejudicial. Accordingly, the amendment will be permitted under the lenient standard of Rule 15(a).

ORDER

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion to amend counterclaim (Docket No. 78) is GRANTED, and the Clerk of the Court shall file

the amended pleading submitted by Freightliner.



DATED: **October 17, 2007**

A handwritten signature in black ink, reading "B. Lynn Winmill".

Honorable B. Lynn Winmill
Chief U. S. District Judge