DOWD, J.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION

IT'S JUST LUNCH INTERNATIONAL, LLC,

Plaintiff,

v.

CASE NO. ED CV 09-1032-DDD(OPx)

.

PAMELA OSGOOD, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Before the Court is Defendants' cross-motion to amend its second amended counterclaim pursuant to Federal Rule of Civil Procedure 15. ECF No. 57. Plaintiff has submitted its opposition and Defendants did not reply in support of their motion.

Also pending before the Court is Plaintiff's motion to dismiss portions of Defendants' second amended counterclaim. The Court suspended briefing on the motion to dismiss until the Court ruled on Defendants' motion to file their third amended counterclaim.

Given that Rule 15(a)(2) "requires that even where amendment is not a matter of right, leave to amend shall 'be freely granted when justice so requires,'" the Court GRANTS Defendants' cross-motion to amend its second amended counterclaim. *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 701 (9th Cir. 1990) (stating also, "The standard for granting leave to amend is generous."). Accordingly, Defendants are permitted to file the third amended counterclaim and are instructed to do so forthwith. (ED CV 09-1032-DDD(OPx))

Because Defendants are granted leave to file their third amended counterclaim, the Clerk is directed to terminate Plaintiff's pending motion to dismiss (ECF No. 54) and request for judicial notice (ECF No. 55) as moot.

In anticipation of Plaintiff's motion to dismiss all or part of Defendants' third amended counterclaim the Court sets forth the following briefing schedule:

- Plaintiff's motion to dismiss should be filed no later than November 3, 2010.
- Any opposition should be filed no later than November 17, 2010.
- Any reply should be filed no later than November 24, 2010.

IT IS SO ORDERED.

October 20, 2010 Date s/ David D. Dowd, Jr.

David D. Dowd, Jr. U.S. District Judge