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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

XETA TECHNOLOGIES, INC., an
Oklahoma corporation,

Plaintiff,

vs.
EXECUTIVE HOSPITALITY, INC.,

Defendant.

CASE NO. 09cv22-WQH-JMA
ORDER

HAYES, Judge:

The matter before the Court is the motion for leave to file an amended complaint (Doc. 15) filed by Plaintiff Xeta Technologies, Inc.

On January 7, 2009, Plaintiff filed a complaint against Defendant Executive Hospitality alleging a claim for breach of contract. (Doc. 1.)

On April 24, 2009, Plaintiff filed a motion for leave to file an amended complaint. (Doc. 15.) Plaintiff moves for leave to amend in order to add claims for unjust enrichment and fraud based upon facts discovered after the filing of the original complaint. Defendant has not filed any opposition to the motion.

Rule 15 of the Federal Rules of Civil Procedure mandates that leave to amend “be freely given when justice so requires.” Fed. R. Civ. P. 15(a). This policy is applied with “extraordinary liberality.” *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990). Once an answer to the complaint has been filed, “leave to amend should be granted unless amendment would cause prejudice to the opposing party, is sought in bad faith,


1 is futile, or creates undue delay.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607
2 (9th Cir. 1992). “[T]here exists a presumption under Rule 15(a) in favor of granting leave to
3 amend.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003).

4 **RULING OF THE COURT**

5 This case remains in the early stages of pretrial procedure. The parties have yet to hold
6 a case management conference, and have not engaged in any discovery. Allowing Plaintiff to
7 file an amended complaint will not create undue delay and will not unduly prejudice
8 Defendant. The Court cannot conclude that the proposed amendment would be futile based
9 on the pleadings or that Plaintiff is proceeding in bad faith.

10 IT IS HEREBY ORDERED that the motion for leave to file an amended complaint
11 (Doc. 15) filed by Plaintiff is GRANTED. Plaintiff shall file the first amended complaint
12 within 15 days of the date of this order.

13 DATED: June 4, 2009

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15 **WILLIAM Q. HAYES**
16 United States District Judge
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