

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Boyd N. Boland

Civil Action No. 09-cv-01632-CMA-BNB

MARK SMITH, individually and on behalf  
of other similarly situated persons,

Plaintiff,

v.

PIZZA HUT, INC.,

Defendant.

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**ORDER**

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This matter arises on the following:

- (1) **Plaintiff's Motion for Leave to Amend Complaint** [Doc. # 131, filed 7/20/2010] (the "Motion to Amend"); and
- (2) **Pizza Hut's Unopposed Motion to Seal Exhibit B to the Declaration of Shelley D. Cordova In Support of Pizza Hut's Opposition to Plaintiffs' Motion for Leave to Amend Complaint** [Doc. # 139, filed 8/4/2010] (the "Motion to Seal").

Also pending is:

- (3) **Pizza Hut's Rule 12(b)(6) Motion** [Doc. # 106, filed 4/23/2010] (the "Motion to Dismiss").

I held a hearing on the motions yesterday and made rulings on the record, which are incorporated here. In summary and for the reasons stated on the record:

IT IS ORDERED that the Motion to Amend [Doc. # 131] is GRANTED. The Clerk of the Court shall accept for filing the Second Amended Complaint [Doc. # 131-1]. The defendant

shall answer or otherwise respond to the Second Amended Complaint on or before **September 8, 2010**.

IT IS FURTHER ORDERED that the Motion to Seal [Doc. # 139] is GRANTED.

IT IS FURTHER ORDERED that the Motion to Dismiss [Doc. # 106] is DENIED AS MOOT and without prejudice in view of the filing of the Second Amended Complaint.

Dated August 10, 2010.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge