

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02616-PAB-KLM

NOBLE SYSTEMS CORPORATION, a Georgia corporation

Plaintiff,

v.

TECH SQUAD, LLC, a Colorado limited liability company,
SIMPLE FOCUS, LLC, d/b/a TECH SQUAD, LLC, a Colorado limited liability company,
DANNY SCHAEFER, an individual,
NOAH SEIS, an individual, and
JOHN DOES 1 - 4,

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Plaintiff's Unopposed Motion for Leave to Amend Complaint** [Docket No. 8; Filed November 11, 2009] (the "Motion").

Plaintiff requests leave to file a Second Amended Complaint. Fed.R.Civ.P. 15(a) provides for liberal amendment of pleadings. Leave to amend is discretionary with the court. *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Viernow v. Euripides Dev. Corp.*, 157 F.3d 785, 799 (10th Cir. 1998). Amendment under the rule has been freely granted. *Castleglenn, Inc. v. Resolution Trust Company*, 984 F.2d 1571 (10th Cir. 1993) (internal citations omitted). "Refusing leave to amend is generally only justified upon a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment." *Frank v. U.S. West, Inc.*, 3 F.3d 1357, 1365 (10th Cir. 1993). In the Motion, Plaintiff indicates that

the filing of second amended complaint is necessary to cure deficiencies in the jurisdictional allegations in the first amended complaint. Defendant does not oppose the filing of a second amended complaint. *Motion* [#8] at 1. Accordingly, the Court finds that justice requires that Plaintiff be allowed to file a second amended complaint.

IT IS HEREBY **ORDERED** that the Motion is **GRANTED**. Plaintiff's Second Amended Complaint and Jury Demand [Docket No. 8-2] is **accepted for filing** as of the date of this Order.

Dated: November 13, 2009

BY THE COURT:

s/ Kristen L. Mix
U.S. Magistrate Judge
Kristen L. Mix