

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

PLANET BINGO, LLC,

Plaintiff,

vs.

CASE NO. 5:10-cv-00064-RS-MD

WILD BILL'S BINGO, INC.,

Defendant.

ORDER

Before me are Defendant Planet Bingo's Motion to Dismiss Counterclaim of Defendant Wild Bill's Bingo (Doc. 11) and Defendant's Response to Motion to Dismiss Counterclaim (Doc. 17).

I. STANDARD OF REVIEW

Federal Rule of Civil Procedure 8(a)(2) requires that a pleading give the defendant, " 'fair notice of what the ... claim is and the grounds upon which it rests.' " *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)). When a pleading does not meet this standard, it may be dismissed under Federal Rule of Civil Procedure 12(b)(6). However, leave to

amend a pleading should be freely given “when justice so requires.” Fed.R.Civ.P. 15(a)(2).

II. ANALYSIS

Here, the counterclaim does not identify a legal cause of action, or facts that would support one. Consequently, Defendant’s counterclaim must be dismissed for failure to state a claim upon which relief can be granted. However, the Court shall permit Defendant two weeks to amend its counterclaim to include a legal theory and facts sufficient to make that claim plausible.

III. CONCLUSION

IT IS ORDERED:

1. Plaintiff Planet Bingo’s Motion to Dismiss Counterclaim (Doc. 11) is **GRANTED.**
2. Defendant is granted leave to amend its counterclaim by **July 6, 2010.**

ORDERED on June 21, 2010.

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE