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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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EMERGENCY ESSENTIALS, LLC, a  
Delaware limited liability company,

Plaintiff,

v.

SAMUEL JARVIS TAYLOR, a Utah  
resident; RICHARD TAYLOR, a  
Massachusetts resident; TAYLOR &  
TAYLOR, LLC, a Utah limited liability  
company; CHAPARRAL GROUP, a Utah  
company; DOES I through X, inclusive; and  
ROE CORPORATIONS I through X,  
inclusive,

Defendant.

MEMORANDUM DECISION AND  
ORDER GRANTING DEFENDANT’S  
MOTION FOR LEAVE TO FILE SECOND  
AMENDED COUNTERCLAIM

Case No. 2:16-CV-1189 TS

District Judge Ted Stewart

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This matter is before the Court on Defendant/Counterclaimant Samuel Jarvis Taylor’s Motion for Leave to File Second Amended Counterclaim. Plaintiff has failed to respond to the Motion and the time for doing so has now passed.<sup>1</sup>

Generally, once a responsive pleading is filed, “a party may amend its pleading only with the opposing party’s written consent or the court’s leave.”<sup>2</sup> “The court should freely give leave when justice so requires.”<sup>3</sup> “In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of

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<sup>1</sup> Pursuant to Local Rule, “[f]ailure to respond timely to a motion may result in the court’s granting the motion without further notice.” DUCivR 7-1(d).

<sup>2</sup> Fed. R. Civ. P. 15(a)(2).

<sup>3</sup> *Id.*

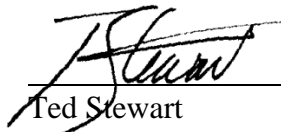
allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be ‘freely given.’”<sup>4</sup> Here, there is no evidence of undue delay, bad faith, dilatory motive, repeated failures to cure, undue prejudice, or futility. Therefore, leave will be given.

It is therefore

ORDERED that Defendant’s Motion for Leave to File Second Amended Counterclaim (Docket No. 33) is GRANTED. Defendant shall file his Second Amended Counterclaim within fourteen (14) days of this Order.

DATED this 7th day of June, 2017.

BY THE COURT:

  
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Ted Stewart  
United States District Judge

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<sup>4</sup> *Foman v. Davis*, 371 U.S. 178, 182 (1962).