

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Scott v. Heredia

Scott v. Heredia · No. 1:24-cv-01067-KES-CDB · Decided May 14, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Plaintiffs’ unopposed motion for leave to file a second amended complaint under Federal Rule of Civil Procedure 15. The Court finds no bad faith, undue delay, prejudice, or apparent futility, and directs Plaintiffs to file the proposed complaint within three days; it also terminates the pending motion to dismiss and vacates the hearing.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 14, 2025
DOCKET	1:24-cv-01067-KES-CDB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved under Federal Rule of Civil Procedure 15(a)(2) for leave to file a second amended complaint. The motion was unopposed, and several defendants stipulated to amendment. The court granted leave, directed plaintiffs to file the proposed second amended complaint, required defendants to respond, and terminated the pending motion to dismiss.
STANDARD OF REVIEW	Leave to amend under Federal Rule of Civil Procedure 15(a)(2) is reviewed under the court's discretion, guided by Rule 15's liberal policy favoring decisions on the merits. In applying the Rule 15 factors, the court generally draws inferences in favor of amendment, and the opposing party bears the burden of showing that amendment is unwarranted.
PRECEDENTIAL VALUE	Unpublished, nonprecedential federal district court order; precedential status is unknown in the source metadata.
PARTIES	Desirae Scott, Jonathan Williams, S. W., D. W. v. Antonia Heredia, Ashley Bryant, Dizander Guerrero, Maria Tinoco, Fatima Dee, Maira

TOPICS

motion to amend pleadings motions to dismiss civil procedure

PRACTICE AREAS

civil procedure civil rights

QUESTIONS PRESENTED

1. Whether plaintiffs should be granted leave under Federal Rule of Civil Procedure 15(a)(2) to file a second amended complaint.
2. Whether the Rule 15 factors of bad faith, undue delay, prejudice, futility, and prior amendment weighed against permitting amendment.
3. Whether the pending motion to dismiss should be terminated and its hearing vacated because the second amended complaint would supersede the first amended complaint.

HOLDINGS

1. Leave to amend should be freely granted when justice so requires, and the court granted plaintiffs leave to file their proposed second amended complaint.
2. The second amended complaint will supersede the first amended complaint, so the clerk was directed to terminate the pending motion to dismiss and vacate its hearing.

KEY QUOTATIONS

“Rule 15(a) is very liberal” (Governing Law)

“In exercising this discretion, a court must be guided by the underlying purpose of Rule 15 to facilitate decision on the merits, rather than on the pleadings or technicalities.” (Governing Law)

“Because the second amended complaint supersedes the first amended complaint, the Clerk of the Court is DIRECTED to terminate Defendants’ pending motion to dismiss” (Conclusion and Order)

FACTUAL BACKGROUND

Plaintiffs alleged that their initial pleadings were incomplete because confidentiality restrictions surrounding alleged child abuse, a criminal case, and juvenile dependency proceedings limited their information about the defendants and their involvement. After obtaining additional information, plaintiffs sought to add or clarify allegations, while removing two incorrectly named defendants and claims for judicial deception and failure to protect. Several defendants stipulated to amendment, no defendant opposed the motion, and one defendant had not been served because plaintiffs could not locate her address.

PROCEDURAL HISTORY

Plaintiffs initiated the action on September 7, 2024, and filed a first amended complaint on December 10, 2024. Plaintiffs first moved for leave to amend on March 31, 2025, then refiled the motion after the court identified a notice-of-hearing violation under Local Rule 230(b). The court granted the renewed motion after considering the Rule 15 factors and finding no bad faith, undue delay, prejudice, or asserted futility.

DISPOSITION

other

CASES CITED

- AmerisourceBergen Corp. v. Dialysist West, Inc., 465 F.3d 946, 951
- Chodos v. W. Publ. Co., 292 F.3d 992, 1003
- Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079
- Swanson v. United States Forest Service, 87 F.3d 339, 343
- United States v. Webb, 655 F.2d 977, 979
- Chudacoff v. Univ. Med. Ctr., 649 F.3d 1143, 1152
- Nunes v. Ashcroft, 375 F.3d 805, 808
- Bonin v. Calderon, 59 F.3d 815, 845
- Atkins v. Astrue, No. C 10–0180 PJH, 2011 WL 1335607, at *3 (N.D. Cal. Apr. 7, 2011)
- Bowles v. Reade, 198 F.3d 752, 758
- Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052
- Griggs v. Pace Am. Group, Inc., 170 F.3d 877, 880
- DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 187

OPINION

Scott v. Heredia

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 DESIRAE SCOTT, et al., Case No. 1:24-cv-01067-KES-CDB 12 Plaintiffs, ORDER
GRANTING PLAINTIFFS’

MOTION FOR LEAVE TO FILE SECOND

13 v. AMENDED COMPLAINT

14 ANTONIA HEREDIA, et al., (Docs. 30, 33) 15 Defendants. THREE-DAY DEADLINE 16
Clerk of the Court to Terminate Motion to Dismiss (Doc. 32) and Vacate Hearing’ 17 18 On
September 7, 2024, Plaintiffs Jonathan Williams and Desirae Scott, individually and 19 as
guardian ad litem for minor Plaintiffs S. W. and D. W., initiated this action with the filing of a 20
complaint against numerous individual Defendants employed with the Kern County’s Sheriff’s 21

Office. (Doc. 1). On December 10, 2024, Plaintiffs filed the operative first amended complaint. 22 (Doc. 13). Pending before the Court is Plaintiffs' motion for leave to file a second amended 23 complaint. (Docs. 30, 33). 24 Background 25 Plaintiffs filed their first motion to amend the complaint on March 31, 2025. (Doc. 30). On

26 April 2, 2025, the Court noted that the motion was noticed for hearing on a date in violation of 27 Local Rule 230(b) and, thus, ordered Plaintiffs to file and serve a new notice of motion setting forth a proper hearing date and time. (Doc. 31). Plaintiffs then re-filed their motion in substantial part 1 with a new compliant hearing date and time. Upon review, the Court notes the only substantial 2 change in Plaintiffs' renewed motion (Doc. 33) is removal of the text of Exhibit 1 to the proposed 3 second amended complaint (Doc. 30-3 at 21-45), though the Exhibit 1 cover page remains. 4 (Compare Doc. 30-3 at 20-45, with Doc. 33-2 at 22). 5 In their motion, Plaintiffs assert that: 6 [The first amended] complaint is incomplete because the Plaintiffs did not have sufficient information on the defendants and their involvement in the underlying 7 claims. Because of allegations of child abuse, the underlying criminal case and juvenile dependency cases are subject to confidentiality. There are at least two law 8 enforcement defendants and four different sets of social workers and their supervisors in the dependency case. State law also imposes confidentiality on the 9 addresses of the foster parents. 10 Plaintiffs' attorney had to rely on an opinion from a California Court of Appeal and 11 the Plaintiffs' memory and notes to draft and file the Complaint and First Amended Complaint to preserve the statute of limitations. Plaintiffs now have sufficient 12 information to amend the First Amended Complaint so that their Second Amended 13 Complaint is sufficiently pled, and Defendants have the necessary information and notice to provide their answers or file a motion to dismiss. 14 15 (Doc. 33 at 3-4). Plaintiffs provide that they have removed Carole Allen and Desiree Lopez as 16 Defendants due to being incorrectly named, as well as removed their claims for judicial deception 17 and failure to protect. Plaintiffs' counsel declares that they have obtained stipulated agreement for 18 the filing of the proposed second amended complaint from counsels for Defendants Ashley Bryant, 19 Dizander Guerrero, Antonia Heredia, Maria Tinoco, and Fatima Dee. (Doc. 33-1 ¶ 8). Plaintiffs' 20 counsel further declares that they sent a request to stipulate to Defendant Maira Puente but have 21 not heard back, and Plaintiffs' assert that they have not been able to determine the address of 22 Defendant Cynthia Bertrand. (Id. ¶ 10). Plaintiffs attach their proposed second amended complaint 23 to their motion. (Docs. 30-3, 33-2). 24 In the motion to dismiss brought by Defendants Bryant, Guerrero, Heredia, and Tinoco 25 (Doc. 32), counsel attaches to his meet and confer declaration email exchanges with counsel for 26 Plaintiffs, evidencing stipulation for leave to amend the operative first amended complaint. (Doc. 27 32-1 at 3). No opposition to Plaintiffs' motion has been filed and the time to do so has expired. 1 Governing Law

2 Rule 15 permits a plaintiff to amend the complaint once as a matter of course no later than 3 21 days after service of the complaint or 21 days after service of a responsive pleading or motion 4 to dismiss, whichever is earlier. See Fed. R. Civ. P. 15(a)(1). After such time has passed or

plaintiff 5 has once amended their complaint, amendment may only be by leave of the court or by written 6 consent of the adverse parties. Fed. R. Civ. P. 15(a)(2). “Rule 15(a) is very liberal” and a court 7 should freely give leave to amend when “justice so requires.” *AmerisourceBergen Corp. v. 8 Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006); see *Chodos v. W. Publ. Co.*, 292 F.3d 992, 9 1003 (9th Cir. 2002) (“it is generally our policy to permit amendment with ‘extreme liberality’”) 10 (quoting *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir.1990)). 11 Granting or denying leave to amend a complaint under Rule 15 is within the discretion of 12 the court. *Swanson v. United States Forest Service*, 87 F.3d 339, 343 (9th Cir. 1996). “In exercising 13 this discretion, a court must be guided by the underlying purpose of Rule 15 to facilitate decision 14 on the merits, rather than on the pleadings or technicalities.” *United States v. Webb*, 655 F.2d 977, 15 979 (9th Cir, 1981); *Chudacoff v. Univ. Med. Ctr.*, 649 F.3d 1143, 1152 (9th Cir. 2011) (“refusing 16 Chudacoff leave to amend a technical pleading error, albeit one he should have noticed earlier, 17 would run contrary to Rule 15(a)’s intent.”). 18 A court ordinarily considers five factors in assessing whether to grant leave to amend: “(1) 19 bad faith; (2) undue delay; (3) prejudice to the opposing party; (4) futility of amendment; and (5) 20 whether the plaintiff has previously amended his complaint.” *Nunes v. Ashcroft*, 375 F.3d 805, 808 21 (9th Cir. 2004). The factors are not weighed equally. *Bonin v. Calderon*, 59 F.3d 815, 845 (9th 22 Cir. 1995); see *Atkins v. Astrue*, No. C 10–0180 PJH, 2011 WL 1335607, at *3 (N.D. Cal. Apr. 7, 23 2011) (the five factors “need not all be considered in each case”). Undue delay, “by itself ... is 24 insufficient to justify denying a motion to amend.” *Bowles v. Reade*, 198 F.3d 752, 758 (9th Cir. 25 1999). On the other hand, futility of amendment and prejudice to the opposing party can, by 26 themselves, justify the denial of a motion for leave to amend. *Bonin*, 59 F.3d at 845; see *Eminence 27 Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (the consideration of prejudice 1 In conducting this five-factor analysis, the court generally grants all inferences in favor of 2 permitting amendment. *Griggs v. Pace Am. Group, Inc.*, 170 F.3d 877, 880 (9th Cir. 1999). 3 Moreover, the court must be mindful that, for each of these factors, the party opposing amendment 4 has the burden of showing that amendment is not warranted. *DCD Programs, Ltd. v. Leighton*, 833 5 F.2d 183, 187 (9th Cir. 1987). 6 Discussion 7 Here, Plaintiffs’ motion is unopposed. All Defendants served with summons and complaint 8 have stipulated to the motion, with the exception of Defendant Puente who, Plaintiffs’ counsel 9 declares, did not respond. Defendant Puente has not filed any opposition. Defendant Bertrand has 10 not been served as her address, Plaintiffs represent, has not been located. (Docs. 20, 33 at 3, 33-1 11 at 2-3). 12 The Court has considered the Nunes factors and finds they weigh in favor of amendment. 13 The Court finds neither bad faith on the part of Plaintiffs nor undue delay in bringing the motion in 14 light of Plaintiffs’ representations regarding the confidentiality of the underlying criminal and 15 juvenile dependency cases due to allegations of child abuse. Likewise, the Court finds no prejudice 16 to opposing parties; Defendants Bryant, Guerrero, Heredia, Tinoco, and Dee have stipulated to 17

amendment, Defendant Puente has not yet filed a responsive pleading, and Defendant Bertrand has
18 not been located for service. 19 No party asserts that leave to amend would be futile; indeed,
Plaintiffs appear to seek to file 20 an amended complaint in part to address asserted deficiencies
Defendants claim in their pending 21 motion to dismiss exist in the operative first amended
complaint. See generally (Doc. 34). Lastly, 22 the fact that Plaintiff has amended his complaint
once prior does not weigh against amendment 23 here, particularly as the prior amendment was
filed before summons were issued or service upon 24 any party was completed. (See Doc. 13). 25
Conclusion and Order 26 For the foregoing reasons, IT IS HEREBY ORDERED: 27 1. Plaintiffs'
motion for leave to file a second amended complaint (Docs. 30, 33) is 1 2. No later than three (3)
days following entry of this order, Plaintiffs SHALL FILE as a stand- 2 alone docket entry the
second amended complaint proposed in the motion, including all 3 attached exhibits; 4 3.
Defendants shall respond to the second amended complaint within 14 days of its filing (see 5 Fed.
R. Civ. P. 15(a)(3)); and 6 4. Because the second amended complaint supersedes the first amended
complaint, the Clerk 7 of the Court is DIRECTED to terminate Defendants' pending motion to
dismiss (Doc. 32) 8 and to vacate the motion hearing set for May 19, 2025, before District Judge
Kirk E. 9 Sherriff. 10 | SO ORDERED. Dated: _May 14, 2025 | hr

12 UNITED STATES MAGISTRATE JUDGE

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