

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

United States v. Tammy Blakey, et al.

Blakey · No. C23-1910-RSM · Decided December 30, 2025

OPINION

Blakey

PER CURIAM.

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UNITED STATES DISTRICT COURT

7 WESTERN DISTRICT OF WASHINGTON

AT SEATTLE

8

9 UNITED STATES OF AMERICA, Case No. C23-1910-RSM

10 Plaintiff, ORDER DENYING DEFENDANTS’

MOTION TO AMEND

11 v. TAMMY BLAKEY, et al., 12 Defendants. 13 14 This matter comes before the Court on the
Motion to Amend the answers and affirmative 15 defenses filed by Defendant Tammy Blakey and
Defendant Flying T Ranch, Inc. (collectively, 16 “Defendants”). Dkt. #26. The Government
opposes. Dkt. #32. 17 This case began on December 13, 2023, and amended pleadings were due
by April 18, 18 2024. Dkts. #1, #10. After no timely demand for a jury trial was made, the Court
set this matter 19 for bench trial on March 21, 2024. Defendants filed their Answers on February
13, 2024. Dkts. 20 #6, #7. Trial and related discovery dates were delayed several times pending
settlement and 21 government shutdown, but the amended pleadings deadline was not changed.
Dkts. #12, #13, 22 #14, #15, #19, #21, #22, #23, #24, #25. 23 Defendants now seek to add several
affirmative defenses, amend defenses and 24 1 admissions, and demand a jury trial. Dkt. #26.
Defendants contend that certain responses by the Government “at or near the very end of the ‘fact
discovery’ window . . . give Defendants great 2 pause[,]” that “Defendants’ counsel did not
substitute into this case until September of 2024,” 3 and that “the case to date has been focused on
pursuing settlement” necessitate these late changes. 4 Id. at 3, 5-6. Defendants also argue that it
was “[n]ot until the end of May 2025 at the end of the 5 exchange of documentary discovery from
the United States did certain facts become clear 6 supporting the additional affirmative defenses.”
Id. at 6. 7 The Government contends that “every new affirmative defense save one could have
been 8 asserted in Defendants’ original answer because they are not based on new information.”
Dkt. 9 #32 at 3. The “one,” the Government argues, “incorrectly characterizes a Memorandum for
10 Record produced by the United States” and Defendants did not serve their discovery requests

11 until March 25, 2025. *Id.* at 4. The Government further points out that the settlement stay
“lasted 12 only about five months,” argues that the “new denials are patently based on changes to
13 Defendants’ legal strategy, not new information,” and that “Defendants fail to explain how they
14 have less information now than when they filed their answer.” *Id.* at 5. 15 A “court should
freely give leave [to amend] when justice so requires,” Fed. R. Civ. P. 16 15(a)(2). Courts apply
this policy with “extreme liberality.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048,
1051 (9th Cir. 2003). Five factors are commonly used to assess the propriety 18 of granting leave
to amend: (1) bad faith, (2) undue delay, (3) prejudice to the opposing party, (4) 19 futility of
amendment, and (5) whether plaintiff has previously amended the complaint. *Allen v. City of*
Beverly Hills, 911 F.2d 367, 373 (9th Cir. 1990); *Foman v. Davis*, 371 U.S. 178, 182 21
(1962). In conducting this five-factor analysis, the court must grant all inferences in favor of
22 allowing amendment. *Griggs v. Pace Am. Group, Inc.*, 170 F.3d 877, 880 (9th Cir. 1999). In 23
addition, the court must be mindful of the fact that, for each of these factors, the party opposing 24
1 amendment has the burden of showing that amendment is not warranted. *DCD Programs, Ltd. v.*
Leighton, 833 F.2d 183, 187 (9th Cir. 1987); see also *Richardson v. United States*, 841 F.2d 2 993,
999 (9th Cir. 1988). 3 A scheduling order “may be modified only for good cause and with the
judge’s consent.” 4 Fed. R. Civ. P. 16(b)(4). The decision to modify a scheduling order is within
the broad discretion 5 of the district court. *Johnson*, 975 F.2d at 607. “Rule 16(b)’s ‘good cause’
standard primarily 6 considers the diligence of the party seeking amendment.” *Id.* at 609. If a
party has acted diligently 7 yet still cannot reasonably meet the scheduling deadlines, the court
may allow modification of the 8 schedule. *Id.* However, “if that party was not diligent, the inquiry
should end” and the motion to 9 modify should not be granted. *Id.* Local Civil Rule 16(m) states
that “this rule will be strictly 10 enforced” in order to “accomplish effective pretrial procedures
and avoid wasting the time of the 11 parties, counsel, and the court.” While prejudice to the party
opposing the modification may 12 provide additional reasons for denying the motion, it is not
required to deny a motion to amend 13 under Rule 16(b). *Coleman v. Quaker Oats Co.*, 232 F.3d
1271, 1295 (9th Cir. 2000). 14 Here, Defendants seek to amend pleadings well over a year past the
deadline and longer 15 still since originally filing them. Defendants contend that “there is still
ample time[,]” but fact 16 discovery deadlines have passed, and trial is scheduled for mere months
from now. Dkt. #36 at 17

10. Defendants’ contention that that “[g]ood cause exists” because “discovery is far from over,
18 and there is no unfair surprise or prejudice to” the Government is unconvincing. *Id.* at 9.
Overall, 19 the Court agrees with the Government that Defendants sat on the facts giving rise to
these 20 amendments for months, and their suggested reasons for delay are either irrelevant or
simply 21 demonstrate undue delay by Defendants. Considering all of the briefing and the record,
the Court 22 finds that Defendants have not been diligent in filing a Motion that requires
amending the 23 scheduling order. See *Acri v. Int’l Ass’n of Machinists & Aerospace Workers*,
781 F.2d 1393, 24 1 1398 (9th Cir. 1986) (holding that “late amendments to assert new theories

are not reviewed favorably when the facts and the theory have been known to the party seeking amendment”). 2 This alone is dispositive and requires denying the instant Motion. Even under a Rule 15 standard, 3 the Court would deny the Motion due to Defendants’ undue delay and the clear prejudice to the 4 Government. Accordingly, the Court will deny Defendants’ Motion. 5 On the jury trial demand, a party must serve such demand “no later than 14 days after the 6 last pleading directed to the issue is served[.]” Fed. R. Civ. P. 38(b)(1). “A party waives a jury 7 trial unless its demand is properly served and filed.” Id. at 38(d). Because the Court denies this 8 Motion, Defendants’ demand for a jury trial was due over a year ago, thus the Court set a bench 9 trial in this Matter. Accordingly, the Court will deny Defendants’ jury trial demand. 10 Given all of the above, and having reviewed the relevant briefing and the remainder of 11 the record, the Court hereby finds and ORDERS that Defendants’ Motion to Amend the Answer 12 and Affirmative Defenses, Dkt. #26, is DENIED. 13 14 DATED this 30th day of December, 2025. 15 A 16 17

RICARDO S. MARTINEZ

UNITED STATES DISTRICT JUDGE

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