

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Ramos v. Funding Rush, Inc.

Ramos · No. 1:23-cv-01016-KES-HBK · Decided March 28, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Defendants Katherine Heftman and Richard Barnes’s motion to amend their pleadings. The court permits the proposed counterclaims and cross-claims, concluding that the motion was timely under the scheduling order, amendment was warranted under Rule 15, and the proposed claims were not shown to be futile or prejudicial. The court also denies as moot the parties’ requests for judicial notice and directs the movants to file the proposed pleadings within three days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 28, 2025
DOCKET	1:23-cv-01016-KES-HBK
DISPOSITION	other
PROCEDURAL POSTURE	Defendants Katherine Heftman and Richard Barnes moved under Federal Rule of Civil Procedure 15 for leave to file proposed counterclaims against the plaintiffs and cross-claims against other defendants. The motion was filed before the scheduling-order deadline for amending pleadings.
STANDARD OF REVIEW	Leave to amend under Rule 15(a)(2) is freely given absent prejudice, bad faith, undue delay, or futility. When a party seeks amendment after the deadline in a Rule 16 scheduling order, the party must first show good cause under Rule 16(b), then satisfy Rule 15(a).
PRECEDENTIAL VALUE	unpublished and nonprecedential

TOPICS

- motion to amend
- civil procedure
- commercial litigation
- real estate
- consumer protection

PRACTICE AREAS

civil procedure

real estate

consumer protection

commercial litigation

QUESTIONS PRESENTED

1. Whether Defendants Heftman and Barnes timely moved to amend their pleadings under the scheduling order.
2. Whether the proposed counterclaims should be allowed under Federal Rule of Civil Procedure 15 despite Plaintiffs' assertions of delay, prejudice, bad faith, and futility.
3. Whether the proposed Cross Complaint should be allowed despite Jones's arguments that the negligence claim was futile and improper.
4. Whether Movants could amend their proposed Cross Complaint through a request raised in briefing to substitute a negligent-misrepresentation claim for the proposed negligence claim.

HOLDINGS

1. Because Movants filed their motion before the scheduling-order deadline to amend pleadings, they were not required to show good cause under Rule 16(b) to modify the scheduling order.
2. Leave to amend to add the proposed Counterclaim was warranted because the motion was timely, the delay was adequately explained by the death of Movants' former counsel and the prompt appearance of new counsel, and Plaintiffs failed to establish prejudice, bad faith, undue delay, or futility.
3. Leave to file the proposed Cross Complaint was warranted because the motion was timely, Jones's opposition was untimely and was construed as a non-opposition, Movants did not act in bad faith or with undue delay, and Jones would not be prejudiced.
4. The request to amend the proposed Cross Complaint to assert negligent misrepresentation instead of negligence was not properly before the court because Movants did not file an amended motion.

KEY QUOTATIONS

"A court should deny amendment only if it would cause prejudice to the opposing party, is sought in bad faith, is futile, or creates undue delay." (at 3)

"Movant's Motion for Amendment of Pleadings (Doc. No. 113) is GRANTED." (at 5)

FACTUAL BACKGROUND

Plaintiffs sued numerous defendants over alleged misconduct arising from the refinancing of their home, including claims under the Truth in Lending Act and the Real Estate Settlement Procedures Act. After removal, the case proceeded through a first amended complaint, answers, counterclaims, cross-claims, and a scheduling order setting a deadline for amending pleadings. Defendants Heftman and Barnes, whose prior counsel died in May 2024, obtained new counsel and sought to assert counterclaims against Plaintiffs and cross-claims against other defendants before the scheduling-order deadline.

PROCEDURAL HISTORY

Plaintiffs filed suit in Fresno County Superior Court alleging Truth in Lending Act, Real Estate Settlement Procedures Act, and related refinancing claims. The action was removed to federal court, where plaintiffs filed a first amended complaint and obtained preliminary injunctive relief concerning foreclosure of their residence. The court entered a scheduling order setting January 15, 2025, as the deadline to amend pleadings; Movants filed their amendment motion on January 13, 2025. The court granted the motion and ordered Movants to file the proposed Cross Complaint and Counterclaim within three days.

DISPOSITION

other

CASES CITED

- Bily v. Arthur Young & Co., 3 Cal. 4th 370 (1992)
- Ascon Properties, Inc. v. Mobil Oil Co., 866 F.2d 1149, 1160 (9th Cir. 1989)
- DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 185-87 (9th Cir. 1987)
- Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607-08 (9th Cir. 1992)
- Forstmann v. Culp, 114 F.R.D. 83, 85 (M.D.N.C. 1987)
- Financial Holding Corp. v. Garnac Grain Co., 127 F.R.D. 165, 166 (W.D. Mo. 1991)
- Foman v. Davis, 371 U.S. 178, 182 (1962)
- United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980)
- Wilson v. Huuuge, Inc., 944 F.3d 1212, 1219-20 (9th Cir. 2019)