

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Emerald Site Services, Inc. v. Papé Machinery, Inc., et al.

Emerald Site Services, Inc. v. Papé Machinery, Inc., No. 2:23-cv-02982-DJC-AC (E.D. Cal. Sept. 4, 2025) · No.
2:23-cv-02982-DJC-AC · Decided September 4, 2025

OPINION

Emerald Site Services, Inc. v. Pape Machinery, Inc.

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 EMERALD SITE SERVICES, INC., No. 2:23-cv-02982-DJC-AC

12 Plaintiff, 13 v. ORDER 14 PAPÉ MACHINERY, INC., et al., 15 Defendants. 16 17 Plaintiff
claims that they were harmed by the sale of a Hydroseeder that 18 allegedly suffered an engine
failure after eight hours of use, as well as the alleged 19 failure to quickly repair or replace the
engine. This action was initially filed in 2023 20 and has proceeded on Plaintiff’s First Amended
Complaint (“FAC”) since March 19, 21 2024. (FAC (ECF No. 17).) Plaintiff has now filed a
Motion for Leave to File a Second 22 Amended Complaint. (Mot. (ECF No. 17).) Plaintiff seeks
to add two new plaintiffs, a 23 new defendant, new factual allegations based on an engine failure
that occurred in

24 April 2025, and two new causes of action for negligence.

25 For the reasons stated below, Plaintiff’s Motion is denied. 26 //// 27 //// 28 ////

1 BACKGROUND

2 Plaintiff initially filed this action in late 2023 in the Sacramento County Superior 3 Court. (See
ECF No. 1-1.) Defendants later removed it to this court. (See ECF No. 1.) 4 A scheduling order
was issued on February 23, 2024, wherein the Court ordered: 5 No further joinder of parties or
amendments to pleadings 6 is permitted without leave of the Court, good cause having been
shown. See Fed. R. Civ. P. 16(b); Johnson v. 7 Mammoth Recreations, Inc., 975 F.2d 27 604 (9th
Cir. 1992). 8 9 (Scheduling Order (ECF No. 9) at 1.) Pursuant to a stipulation of the parties,
Plaintiff 10 filed a First Amended Complaint on March 19, 2024, which has remained the 11
operative complaint ever since. (See FAC.) Under the scheduling order, fact 12 discovery was
completed on February 7, 2025.1 (Scheduling Order at 3.) Pursuant to 13 the stipulation of the
parties, expert discovery was completed on August 16, 2025. 14 (ECF No. 15, 16.) The dispositive
motion filing deadline is set for October 3, 2025. 15 (Scheduling Order at 4.) 16 Plaintiff now
seeks leave to file a Second Amended Complaint (“SAC”), after the 17 deadline for amendment

has passed and discovery has closed. The Proposed SAC 18 would add two plaintiffs, Arctos Erosion Control, Inc. and Iron Poppy, Inc., as well as 19 an additional defendant, Finn Corporation, Inc. (Proposed SAC (ECF No. 17-4) ¶¶ 16, 20 18, 21.) Like Plaintiff, Arctos and Iron Poppy are all entities that are “a part of the 21 Edwards Family Companies, Inc. umbrella of companies.” (Id. ¶ 27.) Finn is the 22 alleged manufacturer of the Hydroseeder at issue. (See id. ¶ 15.) The SAC also seeks 23 to add two negligence causes of action, one against Finn and one against Defendants, 24 as well as factual allegations related to a 2025 failure of the replacement engine that 25 was installed in the Hydroseeder. (Id. ¶¶ 53–55, 85–105.) 26 27 1 The parties later stipulated to extend the close of fact discovery until June 13, 2025, for the limited 28 purpose of conducting the deposition of a Rule 30(b)(6) witness. (See ECF Nos. 15, 16.) 1 Briefing on this motion is now complete. (John Deere Opp’n (ECF No. 18); 2 Reply (ECF No. 19); Papé Opp’n (ECF No. 20).) This matter is taken under submission 3 pursuant to Local Rule 230(g).

4 LEGAL STANDARD

5 The Scheduling Order states that no further amendment or joinder of parties 6 would be permitted “without leave of the court, good cause having been shown.” 7 (Scheduling Order at 1.) As such, the Rule 16 good cause standard applies to 8 determine whether Plaintiff should be permitted to amend their complaint. Fed. R. 9 Civ. P. 16(b)(3)–(4). 10 Federal Rule of Civil Procedure 16(b) states that the court must issue a 11 scheduling order that limits “the time to join other parties, amend the pleadings, 12 complete discovery, and file motions.” Fed. R. Civ. P. 16(b) (3). Once established, the 13 “schedule may be modified only for good cause and with the judge’s consent.” Fed. 14 R. Civ. P. 16(b)(4); see also *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607– 15 08 (9th Cir. 1992).

16 Rule 16(b)’s good cause standard “primarily considers the diligence of the party 17 seeking the amendment.” Id. at 609. “Good cause may be found to exist where the 18 moving party shows that it diligently assisted the court with creating a workable 19 scheduling order, that it is unable to comply with the scheduling order’s deadlines 20 due to matters that could not have reasonably been foreseen at the time of the 21 issuance of the scheduling order, and that it was diligent in seeking an amendment 22 once it became apparent that the party could not comply with the scheduling order.” 23 *Kuschner v. Nationwide Credit, Inc.*, 256 F.R.D. 684, 687 (E.D. Cal. 2009). “If that party 24 was not diligent, the inquiry should end.” *Johnson*, 975 F.2d at 609.

25 Rule 16(b)’s good cause standard is viewed more stringently than Rule 15.

26 *AmerisourceBergen Corp. v. Dialysist W., Inc.*, 465 F.3d 946, 952 (9th Cir. 2006). The 27 moving party cannot “appeal to the liberal amendment procedures afforded by Rule 28 15; his tardy motion [must] satisfy the more stringent ‘good cause’ showing required 1 under Rule 16.” Id. Only if good cause is found will the court then evaluate whether 2 the amendment is proper under Rule 15’s liberal standard. *Johnson*, 975 F.2d at 608.

3 ANALYSIS

4 As an initial matter, Plaintiff argues that the Court should treat Defendant Papé’s 5 failure to file

an opposition as non-opposition to the motion. (Reply at 3.) Three 6 weeks after Plaintiff filed their Reply brief, Papé filed a “Joinder in Opposition and 7 Opposition to Plaintiff’s Motion for Leave to Amend.” (See Papé Opp’n.) Given the 8 extremely late-filed nature of this Opposition, the Court will disregard the arguments 9 raised therein.² Turning to the substance of Plaintiff’s Motion, Plaintiff’s request is 10 most easily assessed in two parts, as their arguments for good cause differ regarding 11 the addition of Arctos and Iron Poppy as Plaintiffs and the addition of the 2025 engine 12 failure and Finn as a defendant. 13 I. Addition of Arctos and Iron Poppy as Plaintiffs 14 Plaintiff seeks to add Arctos and Iron Poppy as plaintiffs. Plaintiff states that it 15 was Iron Poppy that purchased the Hydroseeder in 2022 and Arctos that rented the 16 Hydroseeder from Iron Poppy. (Mot. at 2.) Plaintiff asserts that good cause exists to 17 permit the amendment on the grounds that “Plaintiff’s counsel was not fully made 18 aware of the interrelation between Emerald, Arctos, and Iron Poppy until just prior to 19 the deposition of Austin Edwards, the CEO of the Edwards Family Companies, which 20 occurred after the cutoff for amending complaints outlined in the Scheduling Order.” 21 (Mot. at 5.) 22 Plaintiff has displayed a clear lack of diligence as it relates to the addition of 23 Arctos and Iron Poppy. That Counsel was unaware of their own client’s close 24 relationship with other businesses connected to this lawsuit does not constitute good 25 cause. This was information readily within Plaintiff’s control. Austin Edwards is the 26 27 2 Plaintiff also filed a Motion to Strike the Opposition (ECF No. 21). Given the Court will not consider the arguments in this Opposition and the fact that the Court denies Plaintiff’s Motion to Amend, the 28 Motion to strike is moot and will be denied as such. 1 owner of both Plaintiff Emerald and Iron Poppy. (ECF No. 17-4 ¶¶ 3–4.) Similarly, 2 Arctos is owned by Edwards’ wife. (Edwards Dep. (ECF No. 18-3) at 24:7–8.) Plaintiff 3 essentially asserts good cause exists based on the fact that Plaintiff’s Counsel was 4 unaware of the facts of their own case and learned of them from their client’s owner 5 during his deposition. Plaintiff and Plaintiff’s Counsel’s failure to communicate about 6 important factual information relevant to this case does not constitute good cause. To 7 the contrary, it constitutes a lack of diligence that warrants denial of Plaintiff’s request 8 to amend their complaint to add these entities as plaintiffs. Johnson, 975 F.2d at 609. 9 Further, this information was available to Plaintiff’s Counsel at least as late as 10 Edwards’ deposition on February 19, 2025. Yet Plaintiff waited until July to request 11 leave to amend their Complaint to reflect this information. This is especially significant 12 given that the allegations related to Plaintiff, Iron Poppy, and Arctos in the Proposed 13 SAC represent a substantial deviation from the factual allegations in the operative 14 complaint. Currently, the FAC alleges that it was Plaintiff Emerald who purchased and 15 utilized the Hydroseeder that suffered the engine failure. (FAC ¶¶ 17, 22–24.) 16 Plaintiff’s Proposed SAC now states that Iron Poppy purchased the Hydroseeder 17 (Proposed SAC ¶ 3) and Arctos leased that Hydroseeder from Iron Poppy and was 18 using it at the time of the engine failure (id. ¶¶ 5–6). Per the allegations in the SAC, 19 Plaintiff Emerald’s only involvement in the dispute is that Plaintiff was forced to return 20 a separate Hydroseeder it had leased from Iron Poppy so that Iron

Poppy could provide it to Arctos as a replacement for the damaged Hydroseeder. (Id. ¶¶ 5, 9.) This represents a shift in the factual allegations underlying this case, which Plaintiff has raised just a few months before the dispositive motion deadline.³ Plaintiff's failure to fully understand the facts of their own case from information in their own possession and the substantial delay in seeking leave to amend their complaint both represent a failure of diligence by Plaintiff. As such, the court's inquiry comes to an end, and Plaintiff's Motion on this basis must be denied. Johnson, 975 F.2d at 609. II. Addition of 2025 Engine Failure and Finn as a Defendant Plaintiff also seeks to amend their complaint to include factual allegations regarding a failure of the replacement engine that occurred in April 2025, as well as to add Finn Corporation, Inc. as a defendant. (Mot. at 8.) The failure of the replacement engine was new information to Plaintiff, as was the alleged source of the failure: a missing bearing. However, the failure allegedly occurred on April 9, 2025. (ECF No. 17-4 ¶ 16.) Plaintiff discovered the purported cause of the failure just a few weeks later and informed Defendants that Plaintiff would need to seek leave to amend their complaint. (ECF No. 17-4 ¶ 17; see id., Ex. E at 3–4 (Plaintiff's April 28, 2025, email to Defendants disclosing the new engine failure and stating that Plaintiff would need to add Finn as a defendant).) Despite this, Plaintiff waited over two months — after fact discovery had fully closed, the expert disclosure deadline had passed, and the deadline for dispositive motions was less than a month away — to seek leave to amend their complaint. Plaintiff also did not ask the Court to shorten the time for it to hear Plaintiff's Motion, instead leaving it as a regularly noticed motion on the Court's

September 4, 2025 calendar, after discovery in this case was scheduled to close. This is clearly indicative of a further lack of diligence by Plaintiff in seeking leave to amend the complaint, especially in light of the discussion of Plaintiff's diligence in regard to the addition of plaintiffs discussed above. Johnson, 975 F.2d at 609. Additionally, Plaintiff will not suffer any prejudice from not being permitted to amend. Plaintiff's FAC states claims against Defendants John Deere and Papé based on a theory that the engine in the Hydroseeder was defective, and that Defendants 4 It does not appear that either Defendant takes issue with Finn being added as a Defendant. (See John Deere Opp'n; see also Papé Opp'n.) The Court addresses the addition of Finn here as it is interconnected with the 2025 engine failure and, regardless of Defendants' opposition or non-opposition, Plaintiff must still establish good cause under Rule 16. 1 | unreasonably delayed in repairing the engine. Based on the 2025 failure, Plaintiff now 2 | believes that both the initial engine failure and the 2025 engine failure may have been 3 | caused by Finn not installing a bearing to support the clutch shaft. (Mot. at 6.) 4 | Plaintiff's belief that a missing bearing caused the engine failures is a new theory of 5 | the case. This is not the theory underlying Plaintiff's claims as currently formulated 6 | and this theory only

arose after Plaintiff examined the Hydroseeder following the 2025 7 | engine failure. Given that Plaintiff asserts that the facts concerning the bearing “could 8 | not have been discovered earlier[,]” nothing appears to prevent Plaintiff from filing a 9 | separate action pursuing claims against Finn or the 2025 engine failure. 10 Based on Plaintiff's lack of diligence in seeking to amend, Plaintiff's request to 11 | amend on this basis shall also be denied.

12 CONCLUSION

13 Given the above, Plaintiff has not established good cause for the Court to 14 | modify the schedule and permit Plaintiff to file an amended complaint. Plaintiff's 15 | conduct shows a lack of diligence in seeking amendment. See Johnson, 975 F.2d at 16 | 609. As such, IT IS HEREBY ORDERED that: 17 1. Plaintiff's Motion for Leave to File a Second Amended Complaint (ECF No. 18 17) is DENIED. 19 2. Plaintiff's Motion to Strike (ECF No. 21) is DENIED AS MOOT. 20 IT IS SO ORDERED. 22 | Dated: _September 4, 2025 “Dane J CoD tto— Hon. Daniel alabretta

23 UNITED STATES DISTRICT JUDGE

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