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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

GOOD MORNING TO YOU  
PRODUCTIONS CORP., *et al.*,

Plaintiffs,

v.

WARNER/CHAPPELL MUSIC,  
INC., *et al.*,

Defendants.

) Lead Case No. CV 13-04460-GHK (MRWx)

) **[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR LEAVE  
TO AMEND AND FILE FIFTH  
AMENDED COMPLAINT**

1           **HAVING FOUND GOOD CAUSE APPEARING** in plaintiffs Good  
2 Morning To You Productions Corp., Robert Siegel, Rupa Marya d/b/a Rupa & The  
3 April Fishes, and Majar Productions, LLC’s (“Plaintiffs”) Motion for Leave to  
4 Amend and File Fifth Amended Complaint pursuant to Federal Rule of Civil  
5 Procedure 15, the Court makes the following findings:

6                           **Findings of Fact and Conclusions of Law**

7           1. Plaintiffs propose to file a Fifth Amended Complaint that includes the  
8 following changes: (i) expansion of the class period based on equitable tolling; (ii)  
9 detailed allegations regarding delayed discovery, concealment of the truth regarding  
10 Defendants’ (and their predecessors-in-interest) limited copyright in *Happy Birthday*  
11 and equitable tolling; and (iii) the 1922 publication of the *Happy Birthday* song by  
12 The Cable Car Company.

13           2. Rule 15(a) allows amendment to a complaint “when justice so  
14 requires.” In the Ninth Circuit, the policy favoring leave to amend is such that “a  
15 court should liberally allow a party to amend its pleading.” *Sonoma Cnty. Ass’n of*  
16 *Retired Employees v. Sonoma Cnty.*, 708 F.3d 1109, 1117 (9th Cir. 2013) (citing  
17 *Owens v. Kaiser Foundation Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001)  
18 (finding the policy favoring amendment freely “is to be applied with extreme  
19 liberality.”)). *See also Bernhardt v. County of L.A.*, No. CV 99-10121-GHK, 2009  
20 U.S. Dist. LEXIS 23115, at \*2 (C.D. Cal. Mar. 19, 2009). “Leave to amend lies  
21 within the sound discretion of the trial court.” *DCD Programs, Ltd. v. Leighton*, 833  
22 F.2d 183, 185-86 (9th Cir. 1987) (internal quotations and citation omitted). “The  
23 underlying purpose of Rule 15 . . . [is] to facilitate decision on the merits, rather than  
24 on the pleadings or technicalities.” *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir.  
25 2000) (en banc).

26           3. The Supreme Court has held that motions to amend may be denied for  
27 the following reasons: (1) undue delay; (2) bad faith or dilatory motives on the part  
28 of the movant; (3) repeated failure to cure deficiencies by previous amendments; (4)

1 undue prejudice to the opposing party; or (5) futility of the proposed amendment.  
2 *Foman v. Davis*, 371 U.S. 178, 182 (1962). See also *Sonoma County*, 708 F.3d at  
3 1117; *Owens*, 244 F.3d at 712. The Court finds that none of these reasons are present  
4 here.

5 **ORDER**

6 **THEREFORE**, based upon the foregoing Findings of Fact and Conclusions  
7 of Law, Plaintiffs' Motion for Leave to Amend and File Fifth Amended Complaint  
8 is **GRANTED**, as follows:

- 9 1. Plaintiffs' Proposed Fifth Amended Complaint previously lodged with  
10 the Court shall be filed within two (2) days of the entry of this Order.

11 **IT IS SO ORDERED.**

12 Dated: \_\_\_\_\_

13 HON. GEORGE H. KING, CHIEF JUDGE  
14 UNITED STATES DISTRICT COURT JUDGE