

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **EDCV 16-2069-GHK (KK)**

Date: November 29, 2016

Title: ***Robert Richards, et al. v. Pacific Gas and Electric Company, et al.***Present: The Honorable **KENLY KIYA KATO, UNITED STATES MAGISTRATE JUDGE****DEB TAYLOR**

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

**Proceedings: Order (1) Denying Motion to Dismiss as Moot [Dkt. 13] and (2) Granting Motion for Leave to File First Amended Complaint [Dkt. 22]**

On September 29, 2016, Plaintiffs Robert Richards and Olga Richards (“Plaintiffs”), proceeding *pro se*, filed a Complaint pursuant to Title 42 of the United States Code section 1983, alleging Defendants Pacific Gas and Electric Company and Does 1 through 10 violated their Fourteenth Amendment rights. ECF Docket No. 1. On October 20, 2016, Defendant Pacific Gas and Electric Company (“Defendant”) filed a Motion to Dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. 13. On November 8, 2016, Plaintiffs filed a Motion for Leave to File a First Amended Complaint and lodged a copy of the proposed First Amended Complaint. Dkt. 22.

Pursuant to Federal Rule of Civil Procedure 15(a)(1)(B), “[a] party may amend its pleading once as a matter of course within, . . . 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(B). “When a plaintiff who has a right to amend as a matter of course under Rule 15(a) nevertheless petitions the court for leave to amend, the plaintiff’s right to amend is not lost and the court is obliged to grant such ‘unnecessary request[s].’” *Ramirez v. Silgan Containers*, No. CIV. F07-0091 AWI (DLB), 2007 WL 1241829, at \*3 (E.D. Cal. Apr. 26, 2007) (quoting *Sparling v. Hoffman Const. Co.*, 864 F.2d 635, 638 (9th Cir. 1988)) (holding the district court “does not have discretion to prohibit” plaintiff from amending his complaint as a matter of course pursuant to Rule 15).

Here, Plaintiffs filed their Motion for Leave to File a First Amended Complaint within twenty-one days of Defendant's Motion to Dismiss. Hence, Defendant's Motion to Dismiss is DENIED as MOOT (dkt. 13) and Plaintiffs' Motion for Leave to Amend is GRANTED (dkt. 22). The Clerk of Court shall file Plaintiffs' proposed First Amended Complaint (dkt. 22-1).

**IT IS SO ORDERED.**