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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MALEE HER, et al.,

Case No. 1:14-cv-01453-SKO

Plaintiffs,

v.

**ORDER GRANTING PLAINTIFFS'
UNOPPOSED MOTION TO AMEND THE
COMPLAINT**

AVIVA LIFE AND ANNUITY CO.,

(Doc. 21)

Defendant,

AVIVA LIFE AND ANNUITY CO.,

Counter Claimant,

v.

MALEE HER and TUNG HER-MOUA,

Counter Defendants.

On May 1, 2015, Plaintiffs Malee Her and Tung Her-Moua ("Plaintiffs") filed a motion for leave to file a First Amended Complaint pursuant to Federal Rule of Civil Procedure 15. Plaintiffs seek to add Tularr M. Moua as a Plaintiff. Plaintiffs filed suit against Aviva Life & Annuity Company n/k/a Athene Annuity & Life Assurance Company because it denied Plaintiff Malee Her's and Tung Her Moua's claims for life insurance benefits under two policies insuring the life

1 of their father, Peter Her. After initial discovery was conducted, it was revealed that Plaintiff
2 Tung He's husband, Tularr M. Moua, is a 50 percent co-beneficiary along with his wife on one of
3 Peter Her's life insurance policies. Thus, Plaintiffs seek to add Tularr M. Moua as a Plaintiff to
4 this action. Plaintiffs represent that Defendant does not oppose the request to amend the
5 complaint in this manner, and no opposition has been filed. Plaintiffs have attached a copy of
6 their proposed First Amendment Complaint as an exhibit to their motion to amend. (Doc. 21.)

7 The deadline to seek leave to amend the complaint was May 1, 2015, and Plaintiffs' motion
8 was timely filed. As the amendment to the complaint will not require modification of the
9 scheduling deadlines, there is no prejudice to Defendant. Moreover, the proposed amendment
10 does not appear to be futile, brought in bad faith, or the product of undue delay. *Foman v. Davis*,
11 371 U.S. 178, 182 (1962).

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Pursuant to Federal Rule of Civil Procedure 15, Plaintiffs' motion to amend the
14 complaint is GRANTED;
- 15 2. With two (2) days from the date of this order, Plaintiffs shall file their proposed
16 First Amendment Complaint as attached to their motion to amend; and
- 17 3. Within 15 days from the date Plaintiffs file the First Amendment Complaint,
18 Defendant shall file a responsive pleading.

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20 IT IS SO ORDERED.

21 Dated: May 7, 2015

22 /s/ Sheila K. Oberto
23 UNITED STATES MAGISTRATE JUDGE
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