



1 amend only by leave of the court or by written consent of the adverse party, and leave shall be freely  
2 given when justice so requires. Fed. R. Civ. P. 15(a).

3 Rule 15(a) is very liberal and leave to amend ‘shall be freely given when justice so requires.’”  
4 AmerisourceBergen Corp. v. Dialysis West, Inc., 465 F.3d 946, 951 (9th Cir. 2006) (quoting Fed. R.  
5 Civ. P. 15(a)). However, courts “need not grant leave to amend where the amendment: (1) prejudices  
6 the opposing party; (2) is sought in bad faith; (3) produces an undue delay in the litigation; or (4) is  
7 futile.” AmerisourceBergen Corp., 465 F.3d at 951. Relevant to the futility factor, a plaintiff may not  
8 bring unrelated claims against unrelated parties in a single action. Fed. R. Civ. P. 18(a), 20(a)(2);  
9 Owens v. Hinsley, 635 F.3d 950, 952 (7th Cir. 2011); George v. Smith, 507 F.3d 605, 607 (7th Cir.  
10 2007). The burden to demonstrate prejudice falls upon the party opposing the amendment. DCD  
11 Programs, Ltd. v. Leighton, 833 F.2d 183, 187 (9th Cir. 1987). Absent prejudice, or a strong showing  
12 of any of the remaining three factors, a presumption exists under Rule 15(a) in favor of granting leave  
13 to amend. Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003).

14 As previously stated, Plaintiff seeks to amend the complaint seeks to amend the complaint to  
15 clarify the date of the first incident as October 18, 2011, and not August 10, 2011. Defendants have  
16 submitted a statement of non-opposition. Allowing parties to amend based on information obtained  
17 through discovery is common and well established. Fru-Con Constr. Corp. v. Sacramento Mun. Util.  
18 Dist., No. CIV. S-05-583 LKK/GGH, 2006 WL 3733815, \*15-16 (E.D. Cal. Dec. 15, 2006). In this  
19 instance, the Court finds that granting Plaintiff’s motion to amend would not prejudice Defendants, it  
20 was not brought in bad faith nor does it produce undue delay in the litigation as the motion was filed  
21 prior to deadline set forth in the Court’s March 8, 2017, scheduling order, and amendment is not futile.  
22 Accordingly, Plaintiff’s motion to amend will be granted, and in the interest of justice Defendants are  
23 granted thirty days to file a response.

24 Based on the foregoing, it is HEREBY ORDERED that:

- 25 1. Plaintiff’s motion to amend is granted;
- 26 2. The Clerk of Court is directed to file Plaintiff’s second amended complaint, lodged on  
27 June 12, 2017 (Doc. No. 43); and

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3. Defendants are granted thirty days to file a response to Plaintiff's second amended complaint.

IT IS SO ORDERED.

Dated: July 21, 2017

  
UNITED STATES MAGISTRATE JUDGE