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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

J.F., a minor, by and through her Guardian  
Ad Litem, LIZ FRANCO, et al.,

Plaintiffs,

v.

CITY OF WOODLAKE, et al.,

Defendants.

Case No. 1:23-cv-01569-JLT-BAM

**ORDER VACATING MAY 31, 2024  
HEARING**

**ORDER GRANTING PLAINTIFFS'  
MOTION TO AMEND (Doc. 15)**

**ORDER DIRECTING COMPLIANCE  
WITH LOCAL RULE 202(a)**

Plaintiff J.F., a minor by and through her Guardian Ad Litem Liz Franco, Plaintiff V.F., a minor by and through her Guardian Ad Litem Liz Franco, and Plaintiff M.M., a minor by and through her Guardian Ad Litem Jennifer Menendez, initiated this civil rights action on November 7, 2023, against Defendants City of Woodlake and DOES 1-10. The case arises out of the fatal shooting of the decedent, Victor Melendez, by officers of the City of Woodlake Police Department. (Doc. 1.) Currently before the Court is Plaintiffs' motion seeking leave to file a first amended complaint to substitute Officers Chris Kaious and Juan Gonzales in place of DOES 1-2. (Doc. 15.) Defendant City of Woodlake filed a statement of non-opposition on May 1, 2024. (Doc. 17.) In the absence of opposition, the motion hearing set for May 31, 2024, is VACATED, and the matter is deemed submitted on the current record. L. R. 230(g).

Having considered the moving papers, along with the record in this case, Plaintiffs' motion to amend will be GRANTED. Additionally, Plaintiffs' counsel will be directed to comply

1 with Local Rule 202(a) regarding the appointment of a representative or guardian ad litem for  
2 each of the named minor plaintiffs.

### 3 DISCUSSION

#### 4 A. Motion to Amend

5 Plaintiffs timely filed their motion to amend on April 18, 2024, consistent with the  
6 Scheduling Conference Order deadline to file stipulations or motions to amend. (*See* Doc. 11  
7 [Amendment to Pleadings: August 9, 2024]). Plaintiffs’ motion is therefore considered under the  
8 Federal Rule of Civil Procedure 15 standard for amendment to the pleadings. *See Johnson v.*  
9 *Mammoth Recreations, Inc.*, 975 F.2d 604 (9th Cir. 1992) (concluding that motion to amend filed  
10 after pretrial scheduling order deadline must satisfy the requirements of Federal Rule of Civil  
11 Procedure 16). Rule 15(a) provides that a court “should freely give leave [to amend] when justice  
12 so requires.” Fed. R. Civ. P. 15(a)(2). The United States Supreme Court has stated:

13 [i]n the absence of any apparent or declared reason—such as undue delay, bad faith  
14 or dilatory motive on the part of the movant, repeated failure to cure deficiencies  
15 by amendments previously allowed, undue prejudice to the opposing party by virtue  
of allowance of the amendment, futility of amendment, etc. —the leave sought  
should, as the rules require, be “freely given.”

16 *Foman v. Davis*, 371 U.S. 178, 182 (1962). The intent of the rule is to “facilitate decision on the  
17 merits, rather than on the pleadings or technicalities.” *Chudacoff v. Univ. Med. Center of S. Nev.*,  
18 649 F.3d 1143, 1152 (9th Cir. 2011). Consequently, the “policy of favoring amendments to  
19 pleadings should be applied with ‘extreme liberality.’” *United States v. Webb*, 655 F.2d 977, 979  
20 (9th Cir. 1981).

21 Courts consider five factors in determining whether justice requires allowing amendment  
22 under Rule 15(a): “bad faith, undue delay, prejudice to the opposing party, futility of  
23 amendment, and whether the plaintiff has previously amended the complaint.” *Johnson v.*  
24 *Buckley*, 356 F.3d 1067, 1077 (9th Cir. 2004) (citation omitted); *Bonin v. Calderon*, 59 F.3d 815,  
25 845 (9th Cir. 1995) (citing *Western Shoshone Nat’l Council v. Molini*, 951 F.2d 200, 204 (9th  
26 Cir. 1991)). These factors are not of equal weight as prejudice to the opposing party has long  
27 been held to be the most critical factor in determining whether to grant leave to amend.  
28 *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (“As this circuit and

1 others have held, it is the consideration of prejudice to the opposing party that carries the greatest  
2 weight”); *Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387 (9th Cir. 1990) (“Prejudice to the  
3 opposing party is the most important factor.”). Absent prejudice, or a strong showing of any of  
4 the remaining factors, a presumption exists under Rule 15(a) in favor of granting leave to amend.  
5 *Eminence Capital*, 316 F.3d at 1052.

6 Plaintiffs seek leave to substitute Officers Chris Kaious and Juan Gonzales in place of  
7 DOES 1-2. Plaintiffs explain that, after obtaining supplemental disclosures in discovery, they  
8 learned that Officers Kaious and Gonzales were the officers who allegedly used excessive deadly  
9 force against the decedent. (Doc. 15 at 4.)

10 In considering the relevant factors, the Court finds that leave to amend should be granted  
11 to allow the substitution of Officers Kaious and Gonzales in place of DOES 1-2. First, there is no  
12 indication of undue delay. Plaintiffs timely submitted their motion to amend prior to the deadline  
13 for amendment of pleadings. Second, there will be little prejudice to Defendant City of  
14 Woodlake in permitting the amendment. The case is still in the early stages of discovery, with a  
15 non-expert discovery deadline of April 11, 2025, and a trial date of April 14, 2026. (*See* Doc.  
16 11.) Further, Defendant City of Woodlake does not oppose the motion. Third, there is no  
17 indication that amendment is futile. Federal Rule of Civil Procedure 20 permits joinder of  
18 defendants if “(A) any right to relief is asserted against them jointly, severally, or in the  
19 alternative with respect to or arising out of the same transaction, occurrence, or series of  
20 transaction or occurrences; and (B) any question of law or fact common to all defendants will  
21 arise in the action.” Fed. R. Civ. P. 20(a)(2)(A), (B). Plaintiffs allege that Officers Kaious and  
22 Gonzales were the individual officers of the City of Woodlake Police Department involved in the  
23 incident that resulted in the death of Victor Melendez. Plaintiffs’ right to relief for the asserted  
24 claims against Defendant City of Woodlake and Officers Kaious and Gonzales therefore arise out  
25 of the same transaction, occurrence, or series of transactions or occurrences. Additionally, there  
26 are questions of fact and law common to all defendants related to the death of Victor Melendez.  
27 Fourth, there is no indication that the amendment is brought in bad faith. Fifth, and finally,  
28 Plaintiffs have not previously amended the complaint.

