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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LINNIE STAGGS, as Administrator of  
the ESTATE OF ROBERT E.  
STAGGS, Deceased, and MELISSA  
STAGGS,

Plaintiffs,

v.

DOCTOR'S HOSPITAL OF  
MANTECA, INC., et al.,

Defendants.

No. 2:11-cv-00414-MCE-KJN

**MEMORANDUM AND ORDER**

Through this action, Plaintiffs Linnie Staggs, as administrator of the Estate of Robert E. Staggs, and Melissa Staggs (collectively, "Plaintiffs") seek redress from defendant Doctor's Hospital of Manteca, Inc. ("DHM"), and a number of individual defendants regarding the medical treatment and subsequent death of Robert E. Staggs ("Decedent") while in custody at the Sierra Conservation Center ("SCC"). Presently before the Court are Plaintiffs' Motion for Leave to Amend Complaint (ECF No. 102) and Motions to Dismiss Plaintiffs' Amended Third Amended Complaint ("ATAC") by Defendants Sattah, DHM and Benak.<sup>1</sup>

<sup>1</sup> The Court ordered Plaintiffs to file an Amended Third Amended Complaint to clarify the intent and effect of certain allegations in Plaintiffs' Third Amended Complaint pursuant to the stipulated understanding of all parties. ECF No. 77.

1 For the reasons set forth below, the Court GRANTS Plaintiffs' Motion for Leave to  
2 Amend ("Motion"). As a result, the Motions to Dismiss are DENIED as moot.<sup>2</sup>

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4 **BACKGROUND**

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6 In their ATAC, Plaintiffs allege causes of action for violations of the Eighth and  
7 Fourteenth Amendments of the U.S. Constitution, violation of California Government  
8 Code section 845.6, negligence, violation of California Civil Code section 2.1, and  
9 wrongful death. Specifically, Plaintiffs contend that various medical officials at SCC and  
10 DHM were deliberately indifferent and negligent in diagnosing and treating Decedent's  
11 multiple liver diseases. They aver that Defendants' decision to subject Decedent to a  
12 risky biopsy procedure resulted in excruciating pain and suffering and, ultimately,  
13 Decedent's untimely death.

14 The Court previously dismissed Plaintiffs' First and Fifth Claims for Relief for  
15 violation of the Eighth and Fourteenth Amendments for failure to state a claim. In doing  
16 so, the Court declined to exercise supplemental jurisdiction over the remaining state-law  
17 claims. ECF No. 88. On appeal, a Ninth Circuit panel reversed the dismissal of  
18 Plaintiffs' First Claim for Relief, finding that it properly stated a claim that Defendants St.  
19 Clair, Bangi, Krpan and Benak were deliberately indifferent to Decedent's right to  
20 adequate and necessary healthcare. ECF No. 94.

21 Shortly after the Court re-opened this action, Defendants filed their instant  
22 Motions to Dismiss and Plaintiffs filed their current Motion to Amend, all of which were  
23 timely opposed. Plaintiffs' proposed Fourth Amended Complaint seeks to include new  
24 claims under § 1983 on behalf of Plaintiffs, in their individual capacities, for deprivations  
25 of Plaintiffs' Fourteenth Amendment due process rights to familial association with  
26 Decedent, as well as the loss of companionship they suffered as a result of Decedent's

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28 <sup>2</sup> Because oral argument would not be of material assistance, the Court ordered this matter  
submitted on the briefs. E.D. Cal. Local R. 230(g).

1 death. Furthermore, Plaintiffs seek to add § 1983 claims against Defendants Sattah and  
2 DHM for their deliberate indifference to Decedent's serious medical needs. The  
3 Proposed Fourth Amended Complaint also omits one sentence from the previous  
4 complaint regarding general rates of survival for individuals afflicted with one of  
5 Decedent's medical conditions.

## 7 STANDARD

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9 Generally, a motion for leave to amend a pleading is subject to Rule 15(a), which  
10 provides that "[t]he court should freely give leave [to amend] when justice so requires."  
11 Fed. R. Civ. P. 15(a)(2). Courts interpret Rule 15(a) with "extreme liberality." Eminence  
12 Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1051 (9th Cir. 2003). The Ninth Circuit  
13 applies this liberal policy of amendment of pleadings so long as the case management  
14 scheduling order setting the deadline for amendment of pleadings has not passed.  
15 Coleman v. Quaker Oats Co., 232 F.3d 1271, 1294 (9th Cir. 2000). If the movant  
16 articulates a reason why amendment is needed, the "burden then shifts to the opposing  
17 party to persuade the court that 'justice' requires denial." Stoddart v. Express Services,  
18 Inc., No. 2:12-cv-01054, 2015 WL 1812833 at \*2 (E.D. Cal. April 20, 2015).

19 In exercising its discretion to permit or deny a party to amend its pleading, Ninth  
20 Circuit courts consider five factors: (1) whether the amendment was filed with undue  
21 delay; (2) whether the movant has requested the amendment in bad faith or as a dilatory  
22 tactic; (3) whether the movant was allowed to make previous amendments which failed  
23 to correct deficiencies of the complaint; (4) whether the amendment will unduly prejudice  
24 the opposing party; and (5) whether the amendment would be futile. Foman v. Davis,  
25 371 U.S. 178, 182 (1962). Whether amendment will unduly prejudice the opposing party  
26 is the most important factor in a court's analysis under Rule 15(a). Eminence Capital,  
27 316 F.3d at 1052.

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## ANALYSIS

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3 Plaintiffs argue that they need to amend their complaint to include additional  
4 claims under § 1983 and add a new claim for loss of companionship. They also seek to  
5 omit a paragraph from the ATAC concerning the general survival rate of patients with  
6 one of Decedent's medical conditions. Since Plaintiffs have articulated a reason why  
7 amendment is needed, Defendants must persuade the Court that justice requires denial  
8 of Plaintiffs' Motion. Stoddart v. Express Services, Inc., 2015 WL 1812833 at \*2. To that  
9 end, Defendants principally argue that the Foman factors of prejudice, futility and undue  
10 delay militate in favor of denying Plaintiffs' Motion. Setting the Foman factors aside,  
11 Defendants also contend that Plaintiffs should not be permitted to amend the ATAC to  
12 remove allegations about the survival rate of patients with one of Decedent's medical  
13 conditions. As explained below, Defendants' arguments are unpersuasive.

### A. The Foman Analysis

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15 DHM and Dr. Sattah argue that they would be prejudiced by the proposed  
16 amendments because of stipulations that the § 1983 claims alleged in previous  
17 complaints did not apply to them and because the events that engendered those claims  
18 occurred nearly six years ago. Defendants' arguments are not well-taken.

19 Ninth Circuit courts have found undue prejudice where the "parties have engaged  
20 in voluminous and protracted discovery prior to amendment" and where filing an  
21 amended complaint would have led to "the nullification of prior discovery, increase the  
22 burden of necessary future discovery," or required the relitigation of a previous suit.  
23 Utterkar v. Ebix, 14-CV-02250, 2015 WL 5027986 at \*6 (N.D. Cal. Aug. 25, 2015).

24 Defendants do not and cannot point to any of these potentially deleterious effects in  
25 opposing the instant Motion. The parties have not yet engaged in any discovery.  
26 Furthermore, Plaintiffs' proposed § 1983 claims depend upon essentially the same  
27 alleged conduct as the negligence claims previously asserted against Dr. Sattah and  
28 DHM. There is thus no risk that amendment would substantially increase the burden of

1 necessary future discovery or that Defendants will be prejudiced in their ability to defend  
2 against these allegations. See id.

3 Finally as to undue prejudice, although it is true that Plaintiffs' repeatedly  
4 stipulated that § 1983 claims alleged in previous complaints did not apply to DHM and  
5 Dr. Sattah, those stipulations were limited to the previous complaints to which they  
6 related. See, e.g., ECF No. 79. More importantly, Defendants have failed to meet their  
7 burden of showing that their reliance on those stipulations would now prejudice them  
8 with respect to Plaintiffs' proposed Fourth Amended Complaint.

9 Accordingly, the Court finds that Defendants have failed to establish that granting  
10 Plaintiffs' Motion will result in undue prejudice. Defendants must therefore make a  
11 strong showing that one of the remaining Foman factors favors denial of Plaintiffs'  
12 Motion in order to defeat the presumption in favor of granting the Motion. Eminence  
13 Capital, 316 F.3d at 1052. They have not.

14 Defendant Benak's Opposition to Plaintiffs' Motion on the grounds of futility is  
15 moot. Benak argues that Plaintiffs' proposed Second Cause of Action is futile because  
16 Plaintiffs cannot maintain a claim for failure to summon medical care against a health  
17 care provider under California Government Code section 845.6. ECF No. 109.  
18 Plaintiffs, however, have expressly waived their claim under Government Code section  
19 845.6 with respect to Benak. ECF No. 110, at 3. Accordingly, Benak has failed to  
20 establish that Plaintiffs' proposed amendments are futile.<sup>3</sup>

21 Defendants also assert that Plaintiffs unduly delayed bringing § 1983 claims  
22 against Dr. Sattah and DHM. However, the Ninth Circuit has repeatedly held that  
23 denying leave to amend solely on the grounds of undue delay is an abuse of discretion.  
24 Bowles v. Reade, 198 F.3d 752, 758 (9th Cir. 1999); United States v. Webb, 655 F.2d  
25 977, 980 (9th Cir. 1981). Accordingly, Defendants cannot meet their burden of  
26 persuading the court that justice requires denial based solely on an argument of undue

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28 <sup>3</sup> In accordance with their waiver, the Court directs Plaintiffs to ensure that their Fourth Amended  
Complaint removes any reference to Defendant Benak in their Second Cause of Action.

1 delay. Stoddart v. Express Services, Inc., No. 2:12-cv-01054, 2015 WL 1812833 at \*2  
2 (E.D. Cal. April 20, 2015). Plaintiffs' Motion to Amend thus survives the Foman analysis.

3 **B. Survival Rate Allegations**

4 Defendants DHM and Sattah alternatively assert that if Plaintiffs are permitted to  
5 amend their complaint, the Court should forbid them from deleting the allegations about  
6 survival rates contained in Paragraph 39 of the ATAC. Defendant Sattah argues that the  
7 Court should strike any changes to Paragraph 39 as a sham, while DHM suggests that  
8 United States v. McKeon, 738 F.2d 26, 31 (2d Cir. 1984) forbids a party from altering  
9 factual allegations made in previous pleadings.

10 Both of Defendants' arguments are baseless. Defendant Sattah provides no  
11 evidence that removing the allegations contained in Paragraph 39 would make a sham  
12 out of Plaintiffs' proposed Fourth Amended Complaint. Indeed, Plaintiffs' decision to  
13 delete allegations about the survival rates of patients with hepatocellular carcinoma does  
14 not create a contradiction that supports a finding of any kind of fraud. See Stearns v.  
15 Select Comfort Retail Corp., 763 F.Supp.2d 1128, 1144-45.

16 Furthermore, McKeon does not forbid a plaintiff from changing or deleting  
17 previously pled factual allegations in an amended complaint. Instead, McKeon  
18 explained that previous pleadings constitute "the admissions of a party-opponent and  
19 are admissible" to show that a plaintiff changed her stories. 738 F.2d 26, 31. Here,  
20 Defendants may exploit at trial Plaintiffs' decision to remove the survival rate allegations.  
21 Defendants cannot seriously contend, however, that Plaintiffs are forbidden from  
22 removing such allegations from an amended complaint. Because Defendants have  
23 failed to meet their burden of showing that justice requires denying Plaintiffs leave to  
24 amend, the Court GRANTS Plaintiffs' Motion.

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1 **CONCLUSION**

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3 For the reasons set forth above, Plaintiffs' Motion (ECF No. 102) is GRANTED.

4 Plaintiffs are directed to file their Fourth Amended Complaint no later than twenty (20)

5 days from the date this order is electronically filed. Defendants' pending Motions to

6 Dismiss (ECF Nos. 98, 99, 103) are accordingly DENIED as moot. If Defendants choose

7 to challenge Plaintiffs' Fourth Amended Complaint under Rule 12, the Court expects that

8 Defendants will file a single, coordinated challenge on behalf of all parties.

9 IT IS SO ORDERED.

10 Dated: November 9, 2015

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12 MORRISON C. ENGLAND, JR., CHIEF JUDGE  
13 UNITED STATES DISTRICT COURT

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