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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Estate of NATHAN PRASAD,
deceased, by and through MARY
PRASAD; MARY PRASAD; T.P., a
minor; and A.P., a minor,

Plaintiffs,

v.

COUNTY OF SUTTER; J. PAUL
PARKER, Sutter County Sheriff's
Department Sheriff; DAVID
SAMSON, Sutter County Jail
Division Commander; NORMAN
BIDWELL, Sutter County Jail
Corrections Lieutenant; LOU ANNE
CUMMINGS, Sutter County Health
Officer; AMERJIT BHATTAL, Sutter
County Assistant Director of
Human Services - Health
Division; BRENT GARBETT, Sutter
County Jail Nurse Program
Manager; DORIS BROWN, Sutter
County Jail Advanced Registered
Nurse Practitioner; MELODY
YOUNG, Sutter County Jail
Licensed Vocational Nurse;
BALJINDER RAI, Sutter County
Jail Deputy Officer; SHANE
DICKSON, Sutter County Jail
Deputy Officer; UNKNOWN JAIL
EMPLOYEE I; FREMONT-RIDEOUT
HEALTH GROUP; MICHAEL FRATERS,
D.O.; and DOES I through LX,

Defendants.

2:12-cv-00592-GEB-GGH

ORDER GRANTING MOTION FOR
LEAVE TO FILE SECOND AMENDED
COMPLAINT

Plaintiffs move under Federal Rule of Civil Procedure ("Rule")
15(a)(2) for leave to file a Second Amended Complaint ("SAC") to add

1 eight new defendants and factual allegations against them. Defendants
2 County of Sutter, Parker, Samson, Bidwell, Cummings, Bhattal, Garbett,
3 Brown, Young, Rai, and Dickson ("Defendants") oppose the motion, arguing
4 that amendment would be "premature" or "futile." (Opp'n 2:8, 2:12.)
5 Plaintiffs rejoin that their motion is "not premature, but instead was
6 made in good faith and in compliance" with the Court's Status (Pretrial
7 Scheduling) Order and that their SAC is not futile, since it "alleges
8 specific facts . . . which, if proven, would . . . plainly state claims
9 against the newly-named defendants." (Reply 2:24-25, 6:16.)

10 Rule 15(a)(2) provides that "[t]he court should freely grant
11 leave [to amend a pleading] when justice so requires." "This policy is
12 to be applied with extreme liberality.'" C.F. ex rel. Farnan v.
13 Capistrano Unified Sch. Dist., 654 F.3d 975, 985 (9th Cir. 2011)
14 (quoting Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1051 (9th
15 Cir 2003)).

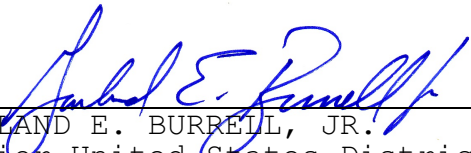
16 In the absence of any apparent or declared
17 reason-such as undue delay, bad faith or dilatory
18 motive on the part of the movant, repeated failure
19 to cure deficiencies by amendments previously
20 allowed, undue prejudice to the opposing party by
virtue of allowance of the amendment, futility of
amendment, etc.-the leave sought should, as the
rules require, be "freely given."

21 Foman v. Davis, 371 U.S. 178, 182 (1962). Here, there is no contention
22 of undue delay, bad faith or dilatory motive, repeated failure to cure
23 deficiencies, or undue prejudice. Rather, Defendants' arguments are that
24 the amendment would be "premature" or "futile." (Opp'n 2:8, 2:12.)

25 In evaluating arguments for denying leave to amend, "[n]ot all
26 of the factors merit equal weight." Eminence Capital, 316 F.3d at 1052.
27 Instead, "it is the consideration of prejudice to the opposing party
28 that carries the greatest weight. . . . Absent prejudice, or a strong

1 showing of any of the remaining Foman factors, there exists a
2 presumption under Rule 15(a) in favor of granting leave to amend." Id.;
3 Capistrano Unified School Dist., 654 F.3d at 985 (same). Defendants have
4 not shown that they would be prejudiced by Plaintiffs' proposed
5 amendment; nor that another Foman factor favors denial of the motion.
6 Accordingly, Plaintiffs' Motion for Leave to File a Second Amended
7 Complaint is granted. Plaintiffs have ten (10) days leave from the date
8 on which this Order is filed to file the SAC.

9 Dated: November 19, 2012

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13 GARLAND E. BURRELL, JR.
14 Senior United States District Judge
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