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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

No. 2:13-cv-01786-GEB-DAD

JUAN JACOB DE LA TORRE and
ZALEEYA DE LA TORRE,
individually and as decedent
Juan De La Torre's successors
in interest, minors by and
through *Guardian Ad Litem*,
VIVICA GONZALEZ; VIVICA
GONZALEZ, an individual, and
GRACIELA ARELLANO, an
individual,

**ORDER GRANTING PLAINTIFFS LEAVE
TO FILE A THIRD AMENDED
COMPLAINT**

Plaintiff,

v.

SWIFT TRANSPORTATION COMPANY,
a publicly traded Delaware
corporation; SWIFT
TRANSPORTATION SERVICES, LLC,
a Delaware Limited Liability
Company; SWIFT TRANSPORTATION
CO. OF ARIZONA, LLC, a
Delaware Limited Liability
Company; INTERSTATE EQUIPMENT
LEASING, LLC, a Delaware
Limited Liability Company;
EDWARD GREER, JR., an
individual; SWIFT LEASING
CO., LLC (DOE NO. 1); FIERRO
TRUCKING II, LLC (DOE NO. 2),
and DOES 3 through 50,
inclusive,

Defendants.

Plaintiffs seek leave under Federal Rule of Civil
Procedure ("Rule") 15(a)(2), inter alia, to file and serve the
Third Amended Complaint attached to their motion. Specifically,

1 Plaintiffs seek to "add Jose Angel Martinez as a Defendant in
2 this matter, and . . . additional allegations regarding the
3 relationship between the parties." (Pls.' Mot. to Amend Second
4 Am. Compl. 2:13-16, ECF No. 17.) Plaintiffs assert Mr. Martinez
5 "is the owner, operator, and/or sole member of Defendant Fierro
6 Trucking II, LLC," which is already a party in this action. (Id.
7 3:7-9.) Plaintiffs also argue that Mr. Martinez had supervisory
8 responsibility over the operator of the tractor-trailer involved
9 in the collision that caused Plaintiffs' damages. (Id. 3:9-10.)

10 Defendants oppose the motion with conclusory arguments,
11 contending that Plaintiffs unduly delayed seeking amendment
12 because they "have known about [Mr. Martinez] since the outset of
13 the litigation," and the amendment sought is "futile" because
14 "Fierro Trucking II, LLC," the company Plaintiffs argue Mr.
15 Martinez owns, "is already a named defendant in this action."
16 (Defs.' Opp'n to Mot. for Leave to Amend 3:11-12, 3:16-17 ECF No.
17 22.)

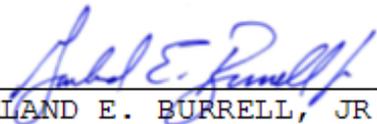
18 Rule 15(a)(2) prescribes: "[t]he court should freely
19 grant leave [to amend a pleading] when justice so requires."
20 "This [amendment] policy is to be applied with extreme
21 liberality." C.F. ex rel. Farnan v. Capistrano Unified Sch.
22 Dist., 654 F.3d 975, 985 (9th Cir. 2011) (quoting Eminence
23 Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1051 (9th Cir.
24 2003)). "District courts generally consider four factors in
25 determining whether to deny a motion to amend: 'bad faith, undue
26 delay, prejudice to the opposing party, and the futility of
27 amendment.'" In re Korean Air Lines Co., Ltd., 642 F.3d 685, 701
28 (9th Cir. 1994) (quoting and citing Kaplan v. Rose, 49 F.3d 1363,

1 1370 (9th Cir. 1994)). "Courts may decline to grant leave to
2 amend only if there is strong evidence of 'undue delay, bad faith
3 or dilatory motive on the part of the movant, repeated failure to
4 cure deficiencies by amendments previously allowed, undue
5 prejudice to the opposing party by virtue of allowance of the
6 amendment, [or] futility of amendment, etc.'" Sonoma County Ass'n
7 of Retired Employees v. Sonoma County, 708 F.3d 1109, 1117 (9th
8 Cir. 2013) (citing and quoting Foman v. Davis, 371 U.S. 178, 182
9 (1962)). Defendants' conclusory arguments regarding undue delay
10 and futility are devoid of evidence sufficient to justify denying
11 Plaintiffs' motion.

12 Therefore, Plaintiffs' motion is GRANTED, and
13 Plaintiffs have five (5) days leave from the date on which this
14 Order is filed to file the Third Amended Complaint attached to
15 their motion.

16 Dated: November 13, 2013

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GARIAND E. BURRELL, JR.
Senior United States District Judge