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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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CALIFORNIA DEPARTMENT OF  
TOXIC SUBSTANCES CONTROL and  
the TOXIC SUBSTANCES CONTROL  
ACCOUNT,

Plaintiffs,

v.

JIM DOBBAS, INC., a  
California corporation;  
CONTINENTAL RAIL, INC., a  
Delaware corporation; DAVID  
VAN OVER, individually;  
PACIFIC WOOD PRESERVING, a  
dissolved California  
corporation; and WEST COAST  
WOOD PRESERVING, LLC, a  
Nevada limited liability  
company,

Defendants,

AND RELATED COUNTERCLAIMS AND  
CROSS-CLAIMS.

CIV. NO. 2:14-595 WBS EFB  
ORDER

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Plaintiffs move pursuant to Federal Rules of Civil  
Procedure 15 and 21 for leave to file a First Amended Complaint

1 ("FAC") adding Collins & Aikman Products, LLC ("C&A Products  
2 LLC") as a defendant. (Docket No. 68.) All defendants who have  
3 appeared in this action have have filed notices of non-opposition  
4 to plaintiffs' motion pursuant to Local Rule 230(c). (Docket  
5 Nos. 70, 71, 72.) "[A] party may amend its pleading only with  
6 the opposing party's written consent or the court's leave. The  
7 court should freely give leave when justice so requires." Fed.  
8 R. Civ. P. 15(a)(2).

9 As a preliminary matter, C&A Products LLC is a  
10 cancelled Delaware limited liability company. (See Pls.' Mem. at  
11 4 (Docket No. 68-1).) To assure the court that C&A Products LLC  
12 has the capacity to be sued, plaintiffs have provided the court  
13 with an order issued by the Delaware Court of Chancery, dated  
14 December 8, 2014, appointing Brian Rostocki as a receiver for C&A  
15 Products LLC pursuant to 6 Delaware Code section 18-805.<sup>1</sup> (Pls.'  
16 Req. for Judicial Notice Ex. A at 4 (Docket No. 73-1).) The  
17 order grants Rostocki the power to act as receiver for the  
18 limited purpose of allowing C&A Products LLC to be sued in this  
19 action. (Id. at 1-2); see 28 U.S.C. § 959(a) (allowing suits  
20 against receivers); Fed. R. Civ. P. 17(b)(3).


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21 <sup>1</sup> The court may take judicial notice of the Delaware  
22 Court of Chancery's order because it constitutes proceedings in  
23 another court that have a direct relation to the addition of C&A  
24 Products LLC as a party. See Schulze v. FBI, 2010 WL 2902518, at  
25 \*1 (E.D. Cal. July 22, 2010) (Ishii, J.) ("A federal court may  
26 'take notice of proceedings in other courts, both within and  
27 without the federal judicial system, if those proceedings have a  
28 direct relation to matters at issue.'" (quoting United States v.  
Black, 482 F.3d 1035, 1041 (9th Cir. 2007)); NuCal Foods, Inc. v.  
Quality Egg LLC, 887 F. Supp. 2d 977, 984 (E.D. Cal. 2012)  
(Mueller, J.) ("Courts have consistently held that courts may  
take judicial notice of documents filed in other court  
proceedings.").

1           Next, plaintiffs represent that, from 1979 to 1997, C&A  
2 Products LLC and its predecessor companies owned the site that is  
3 connected with the alleged cleanup costs that form the basis of  
4 their CERCLA claim against defendants. (Pls.' Mem. at 2; see  
5 Compl. at ¶¶ 15, 17, 19, 21 (Docket No. 1).) Plaintiffs did not  
6 initially name C&A Products LLC as a defendant, but the parties  
7 stated in their Joint Status Report that they may move to add C&A  
8 Products LLC if plaintiffs obtained information suggesting that  
9 there may be potential recovery from the cancelled company's past  
10 insurance coverage. (Pls.' Mem. at 2-3; Joint Status Report at 4  
11 (Docket No. 15).) Having obtained such information, plaintiffs  
12 now make their motion to add C&A Products LLC as a defendant.  
13 (Pls.' Mem. at 3-4; see Heller Decl. Ex. B (Docket No. 68-4).)

14           Good cause appearing therefor, IT IS HEREBY ORDERED  
15 that plaintiffs' motion for leave to file a FAC be, and the same  
16 hereby is, GRANTED.

17 Dated: December 10, 2014

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19 WILLIAM B. SHUBB  
20 UNITED STATES DISTRICT JUDGE  
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