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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAQUISHA JACKSON, an individual;
and A.W., a minor by and through his
mother and natural guardian,
LAQUISHA JACKSON,

Plaintiffs,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Defendant.

No. 2:15-cv-02595-MCE-EFB

MEMORANDUM AND ORDER

Through this action, Plaintiff Laquisha Jackson seeks relief from Defendant Regents of the University of California (“the University”) on behalf of herself and her son, arising from the termination of her employment. Specifically, Jackson alleges that the University improperly fired her as a result of taking intermittent leave to care for her autistic son. In their Complaint, ECF No. 2, Plaintiffs set out nine causes of action based on the Family Medical Leave Act (“FMLA”), 29 U.S.C. §§ 2601–2654; the Americans with Disability Act (“ADA”), 42 U.S.C. §§ 12101–12213; unlawful racial discrimination under 42 U.S.C. § 1981; California’s Fair Employment Housing Act (“FEHA”), Cal. Gov’t Code §§ 12900–12996; and state tort law.

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1 Presently before the Court is Plaintiffs' Amended Motion for Leave to Amend the
2 Complaint, ECF No. 12, in which Plaintiffs seek to add additional claims under FEHA.
3 For the reasons set forth below, Plaintiffs' motion is DENIED.¹
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5 BACKGROUND²

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7 Jackson worked as a senior custodian at the University of California Davis
8 Medical Center ("UCDMC") from 2003 until her termination in 2015. Jackson's son,
9 A.W., was diagnosed in 2005 with autism and developmental disabilities. A.W. is 14
10 years old, but his cognition is estimated to be that of a five-year old. A.W. is prone to
11 violent tantrums and episodes of emotional distress, which require Jackson's immediate
12 presence to calm him down. Several times during her employment at UCDMC, she
13 applied for leave under the FMLA to care for her son. Jackson also attempted to join a
14 different career track at UCDMC that would provide her more flexibility to care for her
15 son.

16 Twice in 2014, Jackson's applications for leave under the FMLA were rejected.
17 Plaintiffs allege that these rejections were improper for various reasons. In February
18 2015, UCDMC initiated the process of firing Jackson due to poor attendance and
19 ultimately terminated her. In response, Plaintiffs filed this lawsuit on December 11,
20 2015. On April 1, 2016, Defendant filed an Answer, ECF No. 7, and the Court entered
21 an Initial Pretrial Scheduling Order on May 3, 2016, ECF No. 9. About seven and a half
22 months later, Plaintiffs made the instant motion, seeking leave to add to their complaint
23 three additional causes of action under FEHA based on discrimination Jackson allegedly
24 suffered because of her association with a disabled person.

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26 ¹ Because oral argument will not be of material assistance, the Court ordered this matter
27 submitted on the briefs. E.D. Cal. Local R. 230(g).

28 ² Unless otherwise noted, the allegations in this section are drawn directly, and in some cases
verbatim, from the allegations of Plaintiffs' Complaint

1 **ANALYSIS**

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3 When filing their motion, Plaintiffs relied on Rule 15. See Mot. for Leave to
4 Amend, at 2. However, as noted above, a Pretrial Scheduling Order issued several
5 months prior to Plaintiffs filing their motion. Thus, Plaintiffs’ motion must be analyzed
6 under Rule 16, and the Court construes the motion as having been made under that
7 Rule.

8 Plaintiffs argue that Rule 16’s good cause standard has been met because they
9 have been diligent and that Defendant would suffer no prejudice if the Court granted
10 leave to amend the complaint. See Pls.’ Reply, ECF No. 15, at 3–5. Though good
11 cause “primarily considers the diligence of the party seeking the amendment,” Johnson,
12 975 F.2d at 609, mere diligence is not sufficient. Good cause requires a showing that
13 the pretrial scheduling order “cannot reasonably be met despite the diligence of the party
14 seeking the extension.” Id.

15 According to Plaintiffs, the impetus for their motion is the California Court of
16 Appeal’s August 29, 2016, decision in Castro-Ramirez v. Dependable Highway Express,
17 Inc., 2 Cal. App. 5th 1028 (2016). Plaintiffs argue that this decision “broadened the
18 scope of an employer’s duty to accommodate employees who are associated with a
19 disabled person.” Mot. for Leave to Amend, at 4. Plaintiffs’ new FEHA claims arise out
20 of this supposed newly broadened view of FEHA.

21 However, Castro-Ramirez did not broaden FEHA. In fact, it explicitly disclaimed
22 deciding the “new” law Plaintiffs rely on. See id. at 1038 (“[W]e do not decide whether
23 FEHA establishes a separate duty to reasonably accommodate employees who
24 associate with a disabled person.”). The court only wrote, in dicta, that Plaintiffs’ reading
25 of FEHA may be a reasonable one. Id. at 1038–39. Furthermore, the discussion in
26 Castro-Ramirez relies on prior caselaw that was available to Plaintiffs when they filed
27 their original complaint. Accordingly, Plaintiffs have not shown that the pretrial

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1 scheduling order could not “reasonably be met despite the diligence of” Plaintiffs.
2 Therefore, Plaintiffs have failed to show good cause, and their motion must be denied.

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4 **CONCLUSION**

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6 For the reasons provided above, Plaintiffs’ Amended Motion for Leave to Amend
7 the Complaint, ECF No. 12, is DENIED.

8 IT IS SO ORDERED.

9 Dated: March 22, 2017

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