

United States District Court
Eastern District of California

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARK PILAND and ANDREA PILAND,
Plaintiffs,
v.
MARKWORT SPORTING GOODS
COMPANY D/B/A GAME FACE, D/B/A
GAMEFACE.COM, et al.
Defendants.

Case No. [16-cv-01782-WHO](#)

**ORDER GRANTING PLAINTIFFS'
MOTION FOR LEAVE**

Re: Dkt. No. 27

Plaintiffs seek leave to amend to add a claim for punitive damages against Defendant Markwort and facts in support thereof. Dkt. No. 27.¹ Plaintiffs argue that their ability to take depositions of key third-party witnesses, and thereby uncover the facts they contend support a claim for punitive damages against Markwort, was impeded by defendants' unduly delayed discovery responses. Dkt. Nos. 27, 32.

Defendant Markwort opposes, arguing that plaintiffs have failed to show good cause for leave to amend, as required under Rule 15 because the Rule 16 pretrial deadline for amending the complaint has passed. Markwort contends that plaintiffs have not been diligent in both seeking discovery and then in working with Markwort to narrow overbroad discovery requests. It asserts that the recent depositions (where plaintiffs allegedly uncovered the facts supporting a claim for punitive damages) were for individuals who were either disclosed back at the end of 2016 or whose identify could readily have been determined from discovery responses produced in 2016. Dkt. No. 31.

Plaintiffs' motion for leave to make the limited amendment they seek is GRANTED. It

¹ The October 11, 2017 hearing on plaintiffs' motion is VACATED.

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appears that both sides bear responsibility for the slow pace of discovery in this case. Plaintiffs moved promptly to amend following the conclusion of the relevant third-party depositions. There is no prejudice to Markwort from allowing the amendment. Plaintiffs shall e-file their proposed First Amended Complaint within ten (10) days of the date of this Order.

IT IS SO ORDERED.

Dated: October 5, 2017



William H. Orrick
United States District Judge