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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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9 MILLER MARITAL DEDUCTION
10 TRUST, by and through its trustees, Helen
11 Miller and James Morris; and HELEN
12 MILLER, an individual,
13 Plaintiffs,
14 v.
15 ESTATE OF MARK B. DUBOIS,
16 DECEASED, an individual and dba Glo
17 Dry Cleaning System, et al.,
18 Defendant.
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No. 2:16-cv-01883-SB

**ORDER GRANTING
PLAINTIFFS' JOINT MOTION
FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT**

20 Before the Court is Plaintiffs Miller Marital Deduction Trust and Helen
21 Miller's (collectively, "Plaintiffs") Joint Motion for Leave to File a First Amended
22 Complaint. ECF No. 27. In its Jury Trial Scheduling Order, ECF No. 24, the Court
23 ordered that motions to amend pleadings in this matter be filed by October 23,
24 2017. Plaintiffs filed the instant motion on July 11, 2017 and attached their
25 proposed First Amended Complaint and Demand for Jury Trial. ECF No. 27,
26 Exhibit D. Plaintiffs seeks to include twelve causes of action, including: (1)
27 Abatement of a Public Nuisance; (2) Abatement of a Private Nuisance; (3)
28 Continuing Trespass; (4) Negligence; (5) Ultrahazardous Activity; (6)

**ORDER GRANTING PLAINTIFFS' JOINT MOTION FOR LEAVE TO
FILE FIRST AMENDED COMPLAINT ^ 1**

1 Contribution; (7) Contribution under Hazardous Substances Account Act; (8)
2 Equitable Indemnity; (9) Breach of Contract; (10) Express Indemnity; (11) Waste;
3 and (12) Declaratory Relief. Id. Defendants oppose the motion. ECF No. 30; 31.
4 The motion was heard without oral argument.

5 Motions to amend pleadings are made pursuant to Fed. R. Civ. P. 15(a),
6 which advises the Court that “leave shall be freely given when justice so requires.”
7 This policy “is to be applied with extreme liberality.” *Desertrain v. City of L.A.*,
8 754 F.3d 1147, 1154 (9th Cir. 2014) (quoting *Morongo Band of Mission Indians v.*
9 *Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990)). Courts consider several factors to
10 determine whether a party should be given leave to amend, including: (1) bad faith
11 (2) presence or absence of undue delay; (3) prejudice to the opposing party; (4)
12 futility of the proposed amendment; and (5) whether the plaintiff has previously
13 amended the complaint. Id. at 1154. These factors do not carry equal weight; it is
14 prejudice to the opposing party that carries the greatest weight. *Eminence Capital,*
15 *LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003). “Absent prejudice, or a
16 strong showing of any of the remaining [] factors, there exists a presumption under
17 Rule 15(a) in favor of granting leave to amend.” Id. (emphasis added).

18 After careful consideration, the Court finds that justice requires granting
19 Plaintiffs’ motion. Plaintiffs’ proposed amendment relates to the central claims of
20 the original Complaint, ECF No. 1, and was filed months prior to the motion
21 deadline set in the Court’s Jury Trial Scheduling Order. ECF No. 24. Moreover,
22 this case is still in the early stages of discovery and the parties have ample
23 opportunity to finish discovery efforts before the January 2, 2018 discovery
24 deadline. Id. The Court, therefore, finds that the proposed amendment has not been
25 made in bad faith; is timely; will not significantly prejudice the opposing party;
26 and that the amendment is not futile. Accordingly, pursuant to the liberal pleading
27 standard set forth in Rule 15(a), the Court **grants** Plaintiffs’ Joint Motion for
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**ORDER GRANTING PLAINTIFFS’ JOINT MOTION FOR LEAVE TO
FILE FIRST AMENDED COMPLAINT ^ 2**

1 Leave to File a First Amended Complaint, ECF No. 27, and docket Plaintiffs'
2 First Amended Complaint. ECF No. 27, Exhibit D.

3 Accordingly, **IT IS ORDERED:**

- 4 1. Plaintiffs' Joint Motion for Leave to File First Amended Complaint, ECF
5 No. 27, is **GRANTED**.
- 6 2. Defendants shall have 21 days after the filing of Plaintiffs' Amended
7 Complaint to file any response thereto.

8 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
9 this Order, provide copies to counsel, and docket Plaintiffs' First Amended
10 Complaint, located at ECF No. 27, Exhibit D.

11 **DATED** this 11th day of September 2017.



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A handwritten signature in blue ink that reads "Stanley A. Bastian".

17 Stanley A. Bastian
18 United States District Judge
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