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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

NOVENDER FLEMING,	)	
	)	
Plaintiff(s),	)	No. C09-1613 BZ
	)	
v.	)	
	)	
NADIA CLARK, et al.,	)	
	)	and Consolidated Case
Defendant(s).	)	
<hr/>		
VICTOR JONES,	)	
	)	
Plaintiff(s),	)	No. C09-4757 BZ
	)	
v.	)	
	)	<b>ORDER GRANTING PLAINTIFFS'</b>
NADIA CLARK, et al.,	)	<b>MOTION FOR LEAVE TO FILE</b>
	)	<b>SECOND AMENDED COMPLAINT</b>
Defendant(s).	)	
	)	
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Before the Court is plaintiffs' motion for leave to file a second amended complaint. Because defendants have failed to show any prejudice, undue delay, bad faith, or futility, the motion is **GRANTED** in its entirety.

"In determining whether amendments are appropriate, courts commonly consider four factors: 1) bad faith of the moving party, 2) delay in the proceedings, 3) prejudice to the

1 nonmoving party, and 4) futility of the amendment." Genentech,  
2 Inc. v. Abbot Laboratories, 127 F.R.D. 529, 530 (N.D.Cal.  
3 1989) citing DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186  
4 (9th Cir. 1987). "The party opposing amendment bears the  
5 burden of showing why amendment should not be granted." Board  
6 of Trustees of the Leland Stanford Junior Univ. v. Roche  
7 Molecular Sys., Inc., 2008 WL 624771, at \*6 (N.D.Cal. 2008).

8 Here, none of the factors weigh in favor of denying the  
9 motion. Though defendants have alleged bad faith, they have  
10 neither cited authority nor submitted any evidence of bad  
11 faith. Further, this amendment will not cause any substantial  
12 delay in the proceedings, as the June trial date was vacated  
13 on **APRIL 5, 2010**. Doc. No. 82. Defendants argue that they  
14 are prejudiced but decline to articulate how. As fact  
15 discovery will remain closed and the time to file dispositive  
16 motions has been extended, I find that the amendment will not  
17 prejudice the defendants. Finally, defendants do not argue  
18 that the amendment is futile.

19 **IT IS THEREFORE ORDERED** as follows:

20 1. I find no need for further argument.

21 2. Plaintiffs' motion for leave to file a second amended  
22 complaint is **GRANTED**. Plaintiffs **SHALL** file an amended  
23 complaint by **APRIL 20, 2010**. Defendants **SHALL** file an answer  
24 by **MAY 10, 2010**.

25 3. Dates:

26 Trial Date: **Monday, MARCH 14, 2011, 8:30 a.m.**

27 Pretrial Conference: **Tuesday, FEBRUARY 22, 2011, 4:00 p.m.**

28 Last Day for Expert Discovery: **JUNE 18, 2010**

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4. Dispositive Motions:

Defendants to file by **June 23, 2010.**

Plaintiffs to file opposition and any cross motion by  
**JULY 12, 2010.**

Defendants to file reply and opposition to any motion  
plaintiffs file by **JULY 26, 2010.**

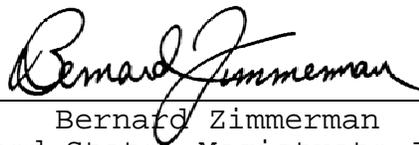
Plaintiffs to file reply on their motion by **AUGUST 2,**  
**2010.**

Hearing **AUGUST 31, 2010, AT 1:30 P.M.,** in Courtroom G,  
15th Floor, Federal Building, 450 Golden Gate Avenue, San  
Francisco, California 94102.

The parties are reminded to comply with the Court's  
procedures for summary judgment motions found in the earlier  
Pretrial Scheduling Order.

5. The parties **SHALL** notify the court if the case  
settles.

Dated: April 14, 2010



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Bernard Zimmerman  
United States Magistrate Judge

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