

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSE RAMIREZ ET AL.,  
Plaintiffs,  
v.  
GHILOTTI BROS. INC. ET AL.,  
Defendants.

No. C 12-04590 CRB

**ORDER GRANTING LEAVE TO FILE  
SECOND AMENDED COMPLAINT**

Plaintiffs have moved under Federal Rule of Civil Procedure 15(a)(2) for leave to file a Second Amended Complaint. Dkt. 18. Defendants argue that the motion should be “denied in part” because many of the amended claims do not “relate back” under Federal Rule of Civil Procedure 15(c), and no private right of action exists to support certain claims. See generally Opp. (dkt. 21). This matter is suitable for disposition without oral argument. See N.D. Cal. Local R. 7-1(b).

Under Federal Rule of Civil Procedure 15(a)(2), “[t]he court should freely give leave when justice so requires.” Amendment should be granted when it will not cause the opposing party undue prejudice, is not sought in bad faith, and is not an exercise in futility. DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir. 1987).


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Defendants' arguments go more to the merits of Plaintiffs' claims (i.e., whether they are time barred and whether they state a claim) than whether leave to amend is appropriate. Accordingly, the Court GRANTS Plaintiffs' motion for leave to amend without prejudice to Defendants' ability to re-raise its arguments in the context of a motion to dismiss.

**IT IS SO ORDERED.**

Dated: January 10, 2013

  
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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE