

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

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4 PATRICIA J. BARRY, in propria
5 persona and MICHELLE
6 FOTINOS,

7 Plaintiffs,

8 v.

9 BETH LABSON-FREEMAN, et al.

10 Defendants.
11

No. C13-4463 TEH

ORDER GRANTING PLAINTIFFS
LEAVE TO AMEND AND
VACATING DEFENDANTS'
MOTION TO DISMISS

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13 Defendants Beth Labson-Freeman, Jonathan Karesh, Robert Foiles, and Clifford
14 Cretan (hereinafter "Judicial Defendants") filed a motion to dismiss on October 18, 2013.
15 Plaintiffs filed an amended complaint on November 12, 2013, more than 21 days after the
16 filing of the motion to dismiss and therefore beyond the time allowed for amendment as of
17 right under Federal Rule of Civil Procedure 15(a)(1)(B). Plaintiffs also failed to file an
18 opposition or statement of non-opposition to Judicial Defendants' motion by the
19 November 1, 2013 deadline.

20 Nonetheless, the Court finds good cause to excuse Plaintiffs' late filing in this
21 instance. After this case was reassigned to this Court, Judicial Defendants re-noticed their
22 motion, and the docket entry included a revised response deadline of November 12, 2013.
23 The Court did not timely correct this error, and Plaintiffs' counsel apparently relied on that
24 date for calendaring purposes. Judicial Defendants have not opposed Plaintiffs' late filing.
25 The Court therefore grants Plaintiffs leave to amend under Federal Rule of Civil Procedure
26 15(a)(2).
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Accordingly, Judicial Defendants' pending motion to dismiss is VACATED as moot. Defendants shall respond to the amended complaint within the time allowed by Federal Rule of Civil Procedure 15(a)(3).

IT IS SO ORDERED.

Dated: 11/18/13

