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7 Attorneys for Plaintiff and Counter-Defendant
 Wells Fargo Bank, N.A., as Trustee for the Clara Poppic Trust

8
 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA

11 WELLS FARGO BANK, N.A., as
 12 TRUSTEE for the CLARA POPPIC
 TRUST,

13
 14 Plaintiff,

15 v.

16
 17 KENNETH G. RENZ; ESTATE OF
 JACKSON R. DENNISON; ESTATE
 18 OF WILEY UMSTEAD; KAZUKO
 UMSTEAD; WON JAE YI aka
 19 MICHAEL YI; NAN Y. PARK; GUAN
 HUANG; YING ZHANG and SUI
 20 SONG,

21 Defendants.
 22

23 AND RELATED COUNTER-CLAIM
 24

Case No.: CV 08 2561 SBA

**ORDER GRANTING
 PLAINTIFF'S MOTION FOR
 LEAVE TO FILE A SECOND
 AMENDED COMPLAINT**

New Date: November 4, 2008
 Time: 1:00 p.m.
 Location: Courtroom 3

25 The motion of Plaintiff Wells Fargo Bank, N.A., as Trustee of the
 26 Clara Poppic Trust ("Plaintiff") for leave to file a second amended complaint
 27 pursuant to Fed. R. Civ. P. 15(a)(2) came on for hearing before this Court, Thomas
 28 F. Vandenburg, Esq. appearing for Plaintiff.


1 Leave to amend should freely be granted when justice so requires.
2 Fed. R. Civ. P. 15(a)(2). As Plaintiff's ninety-day notice and waiting period has
3 expired, addition of this claim is proper. *Zands v. Nelson*, 779 F.Supp. 1254, 1259
4 (S.D. Cal. 1991). The support for the addition of the breach of contract and
5 contractual indemnity claims is demonstrated in *Universal Paragon Corp. v.*
6 *Ingersoll-Rand Co.*, 2007 U.S. Dist. LEXIS 14530, 27 (N.D. Cal. Feb. 13, 2007).
7 As a party may only seek CERCLA contribution from other liable parties after
8 having been sued under CERCLA § 106 or § 107(a), the motion to amend to add a
9 CERCLA § 113(f) claim is also proper. *Cooper Indus., Inc. v. Aviall Servs., Inc.*,
10 543 U.S. 157, 161 (2004).

11 After consideration of the briefs and arguments of counsel, and all
12 other matters presented to the Court,

13 **IT IS HEREBY ORDERED:**

- 14 1. Plaintiff's motion for leave to file a second amended complaint is
15 GRANTED;
- 16 2. The already named and appearing defendants, KENNETH G. RENZ,
17 ESTATE OF JACKSON R. DENNISON, KAZUKO UMSTEAD,
18 GUAN HUANG, and WON JAE YI shall be required to respond to
19 the Second Amended Complaint within twenty days of the date the
20 Second Amended Complaint is filed.

21
22 DATED: 11/7/08



The Honorable Sandra B. Armstrong
United States District Judge

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