UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ALLY BANK, FIDELITY NATIONAL TITLE INSURANCE COMPANY, ET AL.,

Plaintiffs,

vs.

JAMES C. CASTLE AKA J. CHRISTOPHER CASTLE, ET AL.,

Defendant(s).

Case No.: 11-CV-896 YGR

ORDER DENYING PLAINTIFFS' MOTION FOR LEAVE TO AMEND WITHOUT PREJUDICE, AND DENYING DEFENDANTS' ADMINISTRATIVE MOTION FOR EXTENSION AS MOOT

Presently before the Court are two pending motions: (1) The Motion of Plaintiffs Fidelity National Title Insurance Company, *et al.*, for Leave to Amend; and (2) the Administrative Motion of Defendants for Extension of Time to File Opposition to that motion. The Court has carefully considered the motions and rules without oral argument or need of further briefing.[1]

The Motion of Plaintiffs Fidelity National Title Insurance Company, *et al.*, for Leave to Amend is DENIED without prejudice for failure to state, with clarity and as previously directed by the Court, the nature of the new allegations, claims, and parties to be added.

The Court previously ordered Plaintiffs to file their proposed motion for leave to amend and to include in that filing a document that separated out just the new allegations they sought to add. The motion filed on May 29, 2012, does not do this.

[1] Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds that this motion, which has been noticed for hearing on July 3, 2012, is appropriate for decision without oral argument. Accordingly, the Court **VACATES** the hearing set for July 3, 2012.

Further, the redline of the proposed Third Amended Complaint shows that the amendments therein far exceed the scope of the amendments Plaintiffs say they are seeking in the memorandum in support of the motion. The Court notes that the motion and the proposed complaint do not fully explain the respective roles of the parties that Plaintiffs seek to add and have a number of internal inconsistencies. (*Compare* Docket No. 218-4 ["Motion"] 4:10, 5:20 (stating that purchaser on the Canyon and Stone properties was "PCR") *with* Motion, Exh. A [proposed Third Amended Complaint] (no Defendant "PCR" described in the Plaintiff allegations or listed in the caption, but "PCR" and "PCD" identified in later allegations at ¶¶ 258-60, 275); *see also*, Motion, Exh. A at (identifying Merritt as a defendant, but not listing Merritt in caption alleging basis for jurisdiction and venue over Merritt); Motion at 2-5 (no mention of proposed Defendants Marsha Lo, Robert Lo, or Marya Merritt in motion, despite listing in proposed Third Amended Complaint at 3:10, 54:24, and ¶319 (Los) and ¶85, 250, 270, 287 (Merritt).)

Finally, the motion does not state that Plaintiffs seek to add three additional claims for relief based upon new theories against new defendants, although the proposed amended complaint so indicates. (*See* Motion, Exh. A, ¶ 349-363 [adding a new tenth, eleventh, and twelfth claims].)

Based upon the foregoing, the request for an extension of time to respond, filed by Defendants on June 12, 2012, is DENIED as moot.

This order terminates Dkt Nos. 218 and 232.

IT IS SO ORDERED.

Date: June 14, 2012

YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
Northern District of California