

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DONATO TAA, et. al.,

CASE NO. 5:11-cv-00554 EJD

Plaintiff(s),

**ORDER RE: SECOND AMENDED
COMPLAINT**

v.

CHASE HOME FINANCE, LLC., et. al.,

[Docket Item No. 27]

Defendant(s).

On September 1, 2011, the court received a document from Plaintiffs Donato Taa and Anita Taa (“Plaintiffs”) entitled “Second Amended Complaint.” See Docket Item No. 27. The court construes the receipt of the this document as Plaintiffs’ request for leave to amend their pleading pursuant to Federal Rule of Civil Procedure 15(a)(2).

Ordinarily, leave to amend is granted with liberality. Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir. 1990). Leave need not be granted, however, where the amendment of the complaint would cause the opposing party undue prejudice, is sought in bad faith, constitutes an exercise in futility, or creates undue delay. See Janicki Logging Co. v. Mateer, 42 F.3d 561, 566 (9th Cir. 1994); see also Roberts v. Arizona Bd. of Regents, 661 F.2d 796, 798 (9th Cir. 1981).

Here, Plaintiffs seeks to amend the complaint for a second time, apparently to correct certain deficiencies noted by Defendants in the pending motion to dismiss. See Docket item No. 24. But Plaintiffs have not provided information necessary for the court to properly evaluate this request.

1 While the court is cognizant of Plaintiffs' *pro se* status as well the policy favoring leave to amend, it
2 appears that granting leave to amend at this time will cause undue delay and undue prejudice to
3 Defendants.

4 Accordingly, leave to amend and file a Second Amended Complaint is DENIED WITHOUT
5 PREJUDICE. The court will revisit the issue of leave to amend when addressing Defendant's
6 motion to dismiss, which is currently scheduled for hearing on October 21, 2011. The Second
7 Amended Complaint presently appearing as Docket Item No. 27 shall not be filed and is hereby
8 STRICKEN.

9 **IT IS SO ORDERED.**

10 Dated: September 28, 2011



EDWARD J. DAVILA
United States District Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28