



1 components of the boat hoist and boat handling equipment at issue in this lawsuit. The Court  
2 finds no bad faith in Plaintiffs' request to add these companies as defendants.

3 Marine Travelift opposes amendment as futile because it contends that the structural  
4 components fabricated by ExacTech did not "in any way contribute[] to the incident." (Opp.  
5 at 2.) Where, as here, discovery is ongoing, a proposed amendment is futile "only if no set  
6 of facts can be proved under the amendment to the pleadings that would constitute a valid  
7 and sufficient claim or defense." *Miller v. Rykoff-Sexton, Inc.*, 845 F.2d 209, 214 (9th Cir.  
8 1988). Marine Travelift's argument that it expects ExacTech to be successful in a motion to  
9 dismiss does not meet this standard.

10 Finally, Marine Travelift argues that it will be prejudiced because some of its  
11 executives, who also serve as executives of ExacTech, will be subjected to additional  
12 depositions and because it will have to respond to additional document requests. This  
13 argument lacks merit. Prejudice related to the opposing party's burden of undertaking  
14 discovery is not sufficient to warrant denial of a motion to amend a pleading. *See United*  
15 *States on behalf of Maritime Admin. v. Continental Illinois Nat'l Bank & Trust Co.*, 889 F.2d  
16 1248, 1255 (2d Cir. 1989).

17 Accordingly, under the liberal pleading standards of Rule 15, the Court exercises its  
18 discretion to **GRANT** Plaintiffs leave to amend their complaint to add as defendants  
19 ExacTech, Just in Time, and Southern Weaving. The parties shall contact the chambers of  
20 the magistrate judge assigned to this case to obtain an amended case management order.

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22 **IT IS SO ORDERED.**

23 Dated: September 19, 2011

  
**HONORABLE BARRY TED MOSKOWITZ**  
United States District Judge

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