

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 JACQUEE RENNA, and KIPP
12 DOWNING,

13 Plaintiffs,

14 v.

15 OMNI LA COSTA RESORT & SPA,
16 LLC, et al.,

17 Defendants.
18

Case No.: 18-CV-237-JLS (JLB)

**ORDER GRANTING MOTION TO
FILE THIRD-PARTY COMPLAINT**

(ECF No. 7)

19 Presently before the Court is Defendants' Motion for Leave to File Third-Party
20 Complaint, ("MTN," ECF No. 7). Also before the Court is Plaintiffs' Opposition to the
21 Motion, ("Opp'n," ECF No. 8). Defendants seek leave to file a third-party complaint
22 against Gregory Renna.

23 **BACKGROUND**

24 Plaintiffs Ms. Renna and Mr. Downing were staying at the Omni La Costa Resort &
25 Spa. ("Compl." ECF No. 1, ¶ 13.) Plaintiffs allege that Ms. Renna's ex-husband, Mr.
26 Renna, found out the two were staying at the resort. (*Id.* ¶ 14.) Mr. Renna went to the
27 resort and asked the front desk agent for Ms. Renna's room number and a key to her room.
28 The front desk agent obliged. Mr. Renna went to the room, unlocked the door, and

1 “launched a violent attack” on Mr. Downing. (*Id.* ¶ 15.) Plaintiffs have filed a Complaint
2 against Defendants for (1) negligence; (2) intentional infliction of emotional distress; (3)
3 negligent hiring, retention, and supervision; (4) negligent training; (5) premises liability;
4 (6) and respondeat superior. Plaintiffs did not include Mr. Renna as a Defendant. Pursuant
5 to Federal Rule of Civil Procedure 14(a)(1), Defendants move for leave to file a third-party
6 complaint against Mr. Renna.

7 **LEGAL STANDARD**

8 Rule 14(a)(1) provides, in pertinent part, that with the court’s leave, “a defending
9 party may, as third-party plaintiff, serve summons and complaint on a non party who is or
10 may be liable to it for all or part of the claim against it.” Accordingly, a third-party claim
11 may be asserted under Rule 14(a)(1) only when the third-party’s liability is in some way
12 dependent on the outcome of the main claim, or when the third-party is secondarily liable
13 to the defending party. *See Stewart v. Am. Int’l Oil and Gas Co.*, 845 F.2d 196, 199–200
14 (9th Cir. 1988). In other words, a defendant bringing a third-party claim must be attempting
15 to transfer to the third-party a liability asserted by the original plaintiff against that
16 defendant. *Id.* at 200; C. Wright, et al., 6 Federal Practice and Procedure § 1446 (3d ed.
17 2018).

18 Whether to grant a Rule 14(a)(1) impleader motion rests in the sound discretion of
19 the trial court. *United States v. One Mercedes Benz*, 708 F.2d 444, 452 (9th Cir. 1983).
20 “In a non-exhaustive list of considerations, the court will seek to balance the benefits
21 afforded by liberal federal third-party practice against the possible prejudice to the plaintiff
22 and the third-party defendant, complexity of the issues, likelihood of delay, and timeliness
23 of the motion to implead.” *Three Rivers Provider Network, Inc. v. Jett Integration*, No.
24 14cv1092 JM (KSC), 2015 WL 859448, at *7 (S.D. Cal. Feb. 27, 2015) (citing *Irwin v.*
25 *Mascott*, 94 F. Supp. 2d 1052, 1056 (N.D. Cal. 2000)).

26 **ANALYSIS**

27 Here, Defendants satisfy the requirements for impleader. With respect to the Rule’s
28 derivative liability requirement, part of the basis for Plaintiffs’ complaint is that Mr. Renna

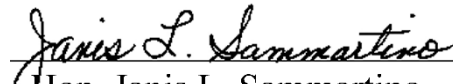
1 caused them distress. Indeed, the other part of their Complaint alleges negligent and
2 wrongful conduct on behalf of the hotel employees. But, the allegations set forth in the
3 proposed third-party complaint could possibly impose some liability arising in tort on Mr.
4 Renna. Accordingly, without addressing the merits or ultimate viability of the third-party
5 complaint, this threshold requirement is satisfied.

6 With regard to timeliness and prejudice, the Court finds that Plaintiffs will not be
7 prejudiced. Plaintiffs admit that the discovery cutoff does not occur until August 2018.
8 (Opp'n 2.) The Court also finds that Mr. Renna's joinder will not substantially complicate
9 the action, and the impact on the timely resolution of this case will not be seriously
10 compromised. The Court concludes that the judicial economy benefits of allowing
11 Defendants to implead Mr. Renna outweigh undue delay and prejudice to Plaintiffs.

12 The Court **GRANTS** Defendants' Motion. Accordingly, the hearing date set for
13 June 28, 2018 at 1:30 p.m. is **VACATED**. Defendants **SHALL** file the third-party
14 complaint attached to their Motion within seven (7) days of the electronic docketing of this
15 Order.

16 **IT IS SO ORDERED.**

17 Dated: June 15, 2018


Hon. Janis L. Sammartino
United States District Judge