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7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA  
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10 ALPHONSO HABBABA,

11 Plaintiff,

12 v.

13 GORILLA MIND, LLC, and  
14 DOES 1–500,

15 Defendants.

Case No.: 24-CV-921 JLS (AHG)

**ORDER GRANTING JOINT  
MOTION FOR PLAINTIFF’S  
LEAVE TO FILE FIRST AMENDED  
COMPLAINT TO ADD PARTIES**

(ECF No. 15)

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17 Presently before the Court is the Joint Motion for Plaintiff’s Leave to File a First  
18 Amended Complaint to Add Parties (“Joint Mot.,” ECF No. 15).

19 Plaintiff Alphonso Habbaba brought this action against Defendants Gorilla Mind,  
20 LLC, and Does 1 through 500, for alleged negligence, product manufacturing defects,  
21 product design defects, failure to warn, and breach of implied and express warranties,  
22 related to purported nutritional/dietary supplements. *See* ECF No. 1. Defendant Gorilla  
23 Mind, LLC filed its Answer on June 14, 2024. *See* ECF No. 3.

24 The Parties were previously granted an extension of the deadline to file a motion to amend,  
25 seeing as Plaintiff intended to add NutraCap as a defendant after learning that “NutraCap  
26 played a material role in the design, medical safety evaluation, and marketing, in addition  
27 to manufacturing, of the products.” ECF No. 14 at 2. In compliance with the extended  
28 deadline, the Parties now request the Court grant Plaintiff leave to file a First Amended

1 Complaint (“FAC”) in order to add NutraCap Holdings, LLC and NutraCap Labs, LLC as  
2 defendants. Joint Mot. at 1. The Parties indicate Counsel for Defendant Gorilla Mind,  
3 LLC agrees in writing and does not oppose Plaintiff’s Motion. *Id.*

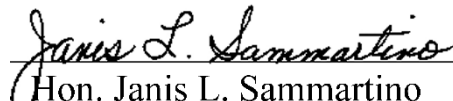
4 Rule 15 of the Federal Rules of Civil Procedure provides that when a party seeks to  
5 amend a complaint after a responsive pleading has been filed, the party may do so as long  
6 as (1) the opposing party consents or (2) the Court grants leave to amend. Fed. R. Civ. P.  
7 15(a)(2). “The court should freely give leave when justice so requires.” *Id.*; *see also*  
8 *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990) (stating  
9 that leave to amend is to be granted with “extreme liberality”).

10 Here, it appears the opposing party consents; thus leave is not required. *See* Joint  
11 Mot. at 2 (“Defendant agrees to in writing and does not oppose the Motion.”). However,  
12 in any event, the Court finds leave should be granted as the Parties assert amending the  
13 Complaint is necessary to bring in additional parties believed by Plaintiff to be liable for  
14 the injuries alleged in the operative Complaint. *Id.* The Court also determines there is no  
15 evidence of “bad faith, undue delay, prejudice to the opposing party, and/or futility,”  
16 considering the determination should be performed with all inferences in favor of the  
17 motion. *Griggs v. Pace Am. Grp., Inc.*, 170 F.3d 877, 880 (9th Cir. 1999).

18 Accordingly, the Court **GRANTS** the Joint Motion to Amend (ECF No. 15).  
19 Plaintiff **SHALL FILE AND SERVE** his proposed First Amended Complaint (ECF  
20 No. 15-2), within seven (7) days of the date on which this Order is electronically docketed.

21 **IT IS SO ORDERED.**

22 Dated: October 25, 2024

23   
24 Hon. Janis L. Sammartino  
25 United States District Judge  
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