

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

LLOYD D. WHALEY, et al.,  
Plaintiffs,

Civ. No. 10-3057-PA

v.

**ORDER**

PACIFIC SEAFOOD GROUP, et al.,  
Defendants.

**PANNER, J.**

Plaintiffs move to file a second amended complaint. Leave to amend a complaint "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). The district court should apply Rule 15's policy of favoring amendments "with extreme liberality." DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir. 1987) (citations and internal quotations omitted). The district court may deny leave to amend if the amendment "(1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation; or (4) is futile." AmerisourceBergen Corp. v. Dialysist West, Inc., 465 F.3d 946, 951 (9th Cir. 2006).

I have studied the parties' briefs and the proposed complaint. The proposed amendment would not be futile. The

proposed amendment will not cause undue delay or prejudice defendants. I conclude that plaintiffs have made a sufficient showing to justify the filing of the second amended complaint.

Because I am granting plaintiffs' motion to file a second amended complaint, defendants' motion to dismiss the first amended complaint is now moot. Defendants may file a motion to dismiss the second amended complaint within twenty days from the date of this order. Plaintiffs will have ten days to file a response brief, and defendants may file a reply brief within ten days of the response brief. I authorize plaintiffs to serve the confidential addendum to the second amended complaint on counsel for the Ocean Gold Group defendants, if counsel signs the Stipulation and Protective Order governing the exchange of confidential information in this action. If counsel for either side shows that more time is needed for briefing, I will consider granting an extension.

#### CONCLUSION

Plaintiffs' motion to file a second amended complaint (#95) is granted. Defendants' motion to dismiss the first amended complaint (#76) is denied as moot. The motion hearing set for October 18, 2010 is cancelled.

IT IS SO ORDERED.

DATED this 7 day of October, 2010.



OWEN M. PANNER  
U.S. DISTRICT JUDGE