UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MASSACHUSETTS BAY INSURANCE CO., *et al.*, Plaintiffs, v. PUSH HDD, LLC, *et al.*, Defendants.	Case No. C17-1174RSM ORDER GRANTING PLAINTIFFS' MOTION TO FILE SECOND AMENDED COMPLAINT

THIS MATTER comes before the Court on Plaintiffs' Motion For Leave to File Second Amended Complaint. Dkt. #22. Defendants have failed to respond to the motion. Under Local Civil Rule 7(b)(2), "[e]xcept for motions for summary judgment, if a party fails to file papers in opposition to a motion, such failure may be considered by the court as an admission that the motion has merit." The Court deems Defendants' failure to be such an admission in this case.

Federal Rule of Civil Procedure 15(a) governs the amendment of pleadings. Under Rule 15(a)(2), leave to amend should be freely given "when justice so requires." Fed. R. Civ. P. 15(a)(2). The Ninth Circuit has held that leave to amend should be granted with "extreme liberality." *DCD Programs, LTD. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1987). The Court must consider whether the proposed amendment (1) would be futile, (2) is the product of undue delay, (3) would prejudice the non-moving party, and (4) was brought in bad faith. *Id.* (stating all four factors). The opposing party bears the burden of showing prejudice, *id.* at 187, which is

the most important factor in whether to grant a motion for leave to amend. *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (presumption in favor of granting leave exists absent prejudice or a strong showing of any of the remaining factors). Having reviewed Plaintiffs' motion, and considering Defendants' failure to respond, the Court will allow Plaintiffs' filing of a Second Amended Complaint.

Accordingly, Plaintiffs' Motion to Amend (Dkt. #22) is GRANTED. Plaintiffs shall file with the Court their Second Amended Complaint, as proposed at Dkt. #22-1, **no later than three (3) business days from the date of this Order.**

DATED this 27 day of November, 2017.

RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE