1. DeLOIA, ET AL. v. CEFALU, ET AL., 23CV2066

Motion for Leave to File Second Amended Complaint

On October 3, 2025, plaintiffs Gina DeLoia and Chris Cefalu (collectively, "plaintiffs") filed the instant motion for leave to file a second amended complaint ("SAC").

On December 1, 2025, defendants John Cefalu and Jonathon "Joby" Cefalu (collectively, the "Cefalu defendants") filed a timely opposition. Defendant JARS Linen, Inc. filed no opposition to the motion.

On December 5, 2025, plaintiffs filed a timely reply.

1. Background

This is a shareholder derivative action commenced on November 27, 2023, by plaintiffs against JARS Linen, Inc. ("JARS"), as well as the Cefalu defendants, who are both shareholders and directors of JARS. Trial is currently set for March 2, 2026.

The original complaint alleged causes of action for (1) breach of fiduciary duty; (2) corporate waste; (3) conversion; (4) civil theft under Penal Code section 496, subdivision (c); and (5) accounting.

Defendants filed a demurrer and motion to strike portions of the original complaint. The motion to strike was based on the grounds that certain portions of the complaint (concerning allegations occurring in 2011, 2012, 2015, 2016, and 2018) were time-barred as a matter of law.

On February 16, 2024, the court sustained defendants' demurrer to the original complaint on the grounds of uncertainty with leave to amend (it was unclear from the original complaint what claims each plaintiff was asserting against which defendants). The court also granted defendants' motion to strike portions of the original complaint, reasoning that the allegations occurring during or before 2018 were time-barred.[1]

[1] Neither party disputed that the applicable statute of limitations for civil theft and conversion is three years; and the applicable statute of limitations for breach of fiduciary duty and corporate waste is four years. Plaintiffs argued they adequately pleaded facts supporting application of the "discovery rule," which postpones accrual of

On March 15, 2024, plaintiffs filed their first amended complaint ("FAC"), which alleged the same causes of action as the original complaint. Defendants filed another demurrer and motion to strike Paragraph 16 of the FAC, which included allegations of wrongdoing that occurred in 2015.[2] The court overruled the demurrer and granted the motion to strike without leave to amend, reasoning that the challenged portion of the FAC was substantially similar to the stricken portion of the original complaint.

On March 6, 2025, defendants allegedly produced additional documents in response to plaintiffs' discovery that revealed multiple new matters: (1) defendants had not been properly appointed as officers or directors; (2) significant funds, including a recent $250,000 transfer, had been moved from corporate accounts; (3) more than $500,000 was identified as a shareholder loan without board approval; and (4) corporate funds had been spent on legal fees (described as indemnification) exceeding $170,000, none of which appear to have been authorized by a proper board vote or resolution. (Stouder Decl., ¶ 27; DeLoia Decl., ¶ 14.) Plaintiffs claim they worked over several months to review corporate financial documents and relevant transactions in order to draft a proposed second amended complaint, but the process was delayed by the volume of materials, defendants' incomplete discovery responses, and the complexity of the issues. (Stouder Decl., ¶ 37; DeLoia Decl., ¶¶ 16, 19–20.)

Plaintiffs' proposed SAC adds the following causes of action: (1) tort of another – claim for attorney fees; (2) appointment of receiver; (3) fraudulent concealment; (4) declaratory relief; (5) breach of contract; and (6) unjust enrichment.

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a cause of action until the plaintiff discovers, or has reason to discover, the cause of action. (See *Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 397.) The court found plaintiffs had not sufficiently alleged delayed discovery, and thus, the allegations occurring during or before 2018 were time-barred.

[2] The court notes that the FAC also included allegations concerning wrongdoing in 2012, and 2018 (see FAC, ¶¶ 15, 17), despite the court's February 16, 2024, order striking allegations occurring during or before 2018. Defendants' motion to strike portions of the FAC related to the allegation occurring during 2015 only.

On July 23, 2025, plaintiffs sent defendants the proposed SAC and requested a reciprocal stipulation allowing plaintiffs to file the amendment (in April 2025, plaintiffs stipulated to the Cefalu defendants filing their second-amended cross-complaint). (Stouder Decl., ¶ 40, Ex. 1.) On August 12, 2025, the Cefalu defendants denied plaintiffs' request to stipulate. (Stouder Decl., Ex. 1.)

2. Request for Judicial Notice

Pursuant to Evidence Code section 452, subdivision (d), the court grants the Cefalu defendants' unopposed request for judicial notice of various filings from this case, as well as *DeLoia*, *et al. v. Jars Linen*, *Inc.* (El Dorado Super. Ct., Case No. 23CV0839).

3. Legal Principles

Under Code of Civil Procedure section 473, subdivision (a)(1), a court "may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading …." (Code Civ. Proc., § 473, subd. (a)(1).) This provision "has received a very liberal interpretation by the courts of this state." (*Klopstock v. Superior Court* (1941) 17 Cal.2d 13, 19; see, e.g., *Ward v. Clay* (1890) 82 Cal. 502, 509.) "That trial courts are to liberally permit such amendments, at any stage of the proceeding, has been established policy in this state since 1901." (*Hirsa v. Superior Court* (1981) 118 Cal.App.3d 486, 488–489; see *Tung v. Chicago Title Co.* (2021) 63 Cal.App.5th 734, 747 ["[T]his liberal policy applies to amendments ' "at any stage of the proceedings, up to and including trial," ' absent prejudice to the adverse party."].) Underlying this "general rule of liberal construction of pleadings" (*Nestle v. Santa Monica* (1972) 6 Cal.3d 920, 939) "and of liberal allowance of amendments" (*ibid.*) is "the fundamental policy that 'cases should be decided on their merits' " (*Hirsa*, *supra*, 118 Cal.App.3d at p. 489). "Indeed, 'it is a rare case in which "a court will be justified in refusing a party leave to amend his pleading so that he may properly present his case." ' [Citation.]" (*Douglas v. Superior Court* (1989) 215 Cal.App.3d 155, 158.) "[A]bsent a showing of prejudice to the adverse

party, the rule of great liberality in allowing amendment of pleadings will prevail." (*Bd. of Trustees v. Superior Court* (2007) 149 Cal.App.4th 1154, 1163.)

4. Discussion

The Cefalu defendants argue the court should deny plaintiffs' motion "given the set trial date, the status of discovery, Plaintiffs' tactics in discovery, the volume of discovery that would be required if amendment were granted, the lack of timeliness in presenting the proposed amendment, Plaintiffs' omission of certain bad/contradictory facts from the proposed pleading, the failure to distinguish amendments versus supplemental allegations, and Plaintiffs' blatant disregard of prior court orders." (Opp. at 3:1–5.) Specifically, the Cefalu defendants claim: (1) certain allegations in the proposed SAC occurred after November 27, 2023 (the date the original complaint was filed), and thus, should be raised via supplemental pleading as opposed to an amended pleading;[3] (2) the allegations in the proposed SAC concerning new tolling theories and allegations dating back to 1979 are not based upon "newly discovered facts" as plaintiffs claim; (3) granting plaintiffs' motion will result in prejudice to the Cefalu defendants; and (4) the proposed SAC "purposefully omits harmful facts about what each of the Plaintiffs knew about JARS operations since the 1980's…. These omissions appear to be deliberately considered so that Plaintiffs may raise new tolling theories in order to enlarge the scope of litigation by forty (40) years." (Opp. at 2:18–19).

Alternatively, the Cefalu defendants request that any grant of amendment be accompanied by the following conditions: (1) an order postponing the set trial date;

[3] The Cefalu defendants claim that the improperly included supplemental allegations are found in Paragraphs 33, 43, 44, 45, 46, 47, 71, 72, 73, 74, and 125 of the proposed SAC. (Opp. at 10:16–17.) With the exception of Paragraph 125, each of these paragraphs is included under the section entitled, "Background," and recount the procedural history of when and how plaintiffs discovered certain evidence. Paragraph 125 falls under the Ninth cause of action for declaratory relief: "There exists an actual and present controversy relating to the rights and responsibilities of the officers and directors of JARS." (Proposed SAC, ¶ 125.)

(2) an order compelling Gina to attend further deposition; and (3) an order extending the discovery cutoff dates to comport with the new trial date. (Opp. at 3:6–14.)

Plaintiffs are agreeable to a reasonable continuance; they allegedly sought to meet and confer on scheduling but did not receive a response from the Cefalu defendants. (Reply at 2:1–3.) Plaintiffs claim the Cefalu defendants will not suffer any prejudice and that the remaining opposition arguments go to the merits of the proposed SAC, not whether plaintiffs should be granted leave to file the proposed SAC.

The Cefalu defendants' first argument is that certain allegations occurring after November 27, 2023, should be raised by supplemental pleading, as opposed to an amended pleading. A supplemental pleading is used to allege relevant facts occurring after the original pleading was filed. (Code Civ. Proc., § 464, subd. (a); *Foster v. Sexton* (2021) 61 Cal.App.5th 998, 1032.) An amended pleading relates to matters existing when the original pleading was filed. (*Ibid.*) However, some courts ignore this distinction and treat supplemental complaints as "amended" pleadings. (See *Honig v. Financial Corp. of America* (1992) 6 Cal.App.4th 960, 967.) The Cefalu defendants argue that the distinction is important here because a supplemental pleading cannot be used to allege facts constituting a new cause of action or defense; the "occurring-after" facts must supplement the cause of action or defense originally pleaded. Having reviewed Paragraphs 33, 43, 44, 45, 46, 47, 71, 72, 73, 74, and 125 of the proposed SAC, the court rejects the Cefalu defendants' argument that plaintiffs' motion for leave to file an amended complaint is improper on the grounds that plaintiffs should instead request leave to file a supplemental complaint.

The court agrees with plaintiffs that, aside from the issue of prejudice, the Cefalu defendants' other arguments go to the merits of the proposed SAC, which is not currently before the court. Ordinarily, the judge will not consider the validity of the proposed amended pleading in deciding whether to grant leave to amend; grounds for demurrer or motion to strike are premature. (See *Kittredge Sports Co. v. Superior Court*

(1989) 213 Cal.App.3d 1045, 1048; *Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 760 ["the better course of action would have been to allow [plaintiff] to amend the complaint and then let the parties test its legal sufficiency in other appropriate proceedings"].)

It is true that the court has discretion to deny leave to amend where the proposed amendment omits or contradicts harmful facts pleaded in the original pleading, absent a showing of mistake or other sufficient excuse for changing the facts; without such a showing, the amended pleading may be treated as a "sham." (*Vallejo Development Co. v. Beck Development Co.* (1994) 24 Cal.App.4th 929, 946; *State of Cal. ex rel. Metz v. CCC Information Services*, *Inc.* (2007) 149 Cal.App.4th 402, 412.)

The Cefalu defendants point out that plaintiffs' original complaint alleges they first suspected wrongdoing in 2011. (Opp. at 15:23–24.) The Cefalu defendants argue, "[t]hese admissions in the original pleadings and previously executed verifications now wholly contradict what is being alleged in the [Proposed] Second Amended Complaint." (Opp. at 15:28–16:1.) However, the Cefalu defendants do not expressly identify any contradiction. Rather, the Cefalu defendants merely state the proposed SAC "now omit[s] any facts that [plaintiffs] had knowledge about various 'suspicious' transactions in 2011, 2012, 2013, 2014, 2016, and 2018." (Opp. at 16:4–5.) On this record, the court is not convinced that the proposed SAC is a sham pleading.

The court now turns to the issue of prejudice. Prejudice exists where the amendment would result in a delay of trial, along with loss of critical evidence, added costs of preparation, increased burden of discovery, etc. (*Magpali v. Farmers Group* (1996) 48 Cal.App.4th 471, 486–488.) There does not appear to be any dispute that granting the instant motion will result in a delay of trial.

The Cefalu defendants claim they will also face added costs of preparation and an increased burden of discovery. Plaintiffs have already deposed John and Joby; and the Cefalu defendants have limited their discovery requests to the relevant timeframe of

2019 to 2025. (Opp. at 8:13–27.) Additionally, the Cefalu defendants' retained experts have not examined any JARS records, transactions, or documents connected with any corporate matter prior to 2019. (Opp. at 9:7–11.)

The court acknowledges these concerns, but notes that the set trial date is still nearly three months away, and nearly three years remain until the five-year deadline to bring the case to trial under Code of Civil Procedure section 583.310. Given the liberal policy permitting amendment, the court exercises its discretion to grant plaintiffs' motion for leave to file the proposed SAC. The court would be willing to consider, upon a noticed motion in the future, reimbursing the Cefalu defendants for additional expenses incurred as a result of this amended pleading.

TENTATIVE RULING # 1: PLAINTIFFS' MOTION FOR LEAVE TO FILE THE PROPOSED SECOND AMENDED COMPLAINT IS GRANTED. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

2. DeLALLO v. QUINLAN, 25CV1218

Default Prove-Up Hearing

TENTATIVE RULING # 2: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, DECEMBER 12, 2025, IN DEPARTMENT FOUR.

3. NIZOLEK v. GORMAN, 23CV0267

Motion to Dismiss

Pursuant to Code of Civil Procedure section 1030, subdivision (d), defendant Tom Gorman ("defendant") moves to dismiss plaintiff Kevin Nizolek's ("plaintiff") action with prejudice on the grounds that plaintiff failed to timely file the required undertaking, as ordered by this court on July 11, 2025. Plaintiff filed no opposition to the motion.

It appears plaintiff may not have been properly served with the instant motion, or even the original motion to require an undertaking (filed May 9, 2025). The proofs of service attached to both motions indicate that defendant electronically served the motions upon plaintiff via email at the following email address: Adrianna.dinardo@farmersinsurance.com. This email address appears to belong to plaintiff's insurance company. However, plaintiff is currently represented, and has been represented at all relevant times, by Joe Laub, Esq. The proofs of service to the motion to dismiss and the motion to require an undertaking list Mr. Laub on the service lists, but do not state how he was notified of the motion.

Appearances are required at 1:30 p.m., Friday, December 12, 2025, in Department Four for the court to inquire whether the motions were properly served upon the plaintiff. In the event the May 9, 2025, motion to require an undertaking was not properly served, then the court's July 11, 2025, order granting the motion is void and will need to be vacated.

If, at the hearing, defendant establishes that plaintiff was properly notified of the motion to dismiss, as well as the motion to require an undertaking, the court will grant the motion to dismiss as plaintiff failed to file an undertaking as ordered by the court on July 11, 2025. (Code Civ. Proc., § 1030, subd. (d).)

TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, DECEMBER 12, 2025, IN DEPARTMENT FOUR.

4. MATTER OF TRISLER, 25CV2713

OSC Re: Name Change

Petitioner Adrian Geary petitions to change the name of his minor child. There is no consent to the proposed name change from the other parent in the court's file.

"If a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days before the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to [Code of Civil Procedure] Section 413.10, 414.10, 415.10, or 415.40." (Code Civ. Proc., § 1277, subd. (a)(4).)

To date, there is no proof of personal service on the other parent in the court's file. There is also no proof of publication. (Code Civ. Proc., § 1277, subd. (a)(2)(A).)

TENTATIVE RULING # 5: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, DECEMBER 12, 2025, IN DEPARTMENT FOUR.

5. POTTS v. DEPT. OF MOTOR VEHICLES, 25CV2255

Status Conference

TENTATIVE RULING # 6: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, DECEMBER 12, 2025, IN DEPARTMENT FOUR.