

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE**

MINUTE ORDER

DATE: 02/19/2015

TIME: 02:00:00 PM

DEPT: 53

JUDICIAL OFFICER PRESIDING: David Brown

CLERK: E. Brown

REPORTER/ERM: S. Adams CSR# 12554

BAILIFF/COURT ATTENDANT: C. Chambers, J. Green

CASE NO: **34-2012-00130439-CU-MC-GDS** CASE INIT.DATE: 10/01/2012

CASE TITLE: **The National Grange of the Order of Patrons of Husbandry vs. The California State Grange**

CASE CATEGORY: Civil - Unlimited

EVENT ID/DOCUMENT ID: ,12179678

EVENT TYPE: Motion to File Amended Complaint - Civil Law and Motion

MOVING PARTY: The National Grange of the Order of Patrons of Husbandry, Edward L Luttrell

CAUSAL DOCUMENT/DATE FILED: Motion - Other for Leave to File Second Amended Complaint, 01/23/2015

APPEARANCES

Martin Jensen, counsel, present for Cross - Defendant,Plaintiff(s).

William A Lapcevic, counsel, present for Defendant(s).

Robert D Swanson, counsel, present for Defendant,Plaintiff(s).

Jeffrey D Skinner, counsel, present for Intervenor(s).

Daniel Stouder, counsel present for defendant Kathy Bergeron

Nature of Proceeding: Motion to File Second Amended Complaint

TENTATIVE RULING

Plaintiff the National Grange of the Order of Patrons of Husbandry's motion for leave to file a second amended complaint is granted.

In this declaratory relief action, Plaintiff seeks leave to file an amended complaint as a result of "major material changes in the status of the parties within the Order of the Grange since the last amendment of the pleadings." Plaintiff asserts that the former California State Grange (unchartered State Grange) had its charter revoked and disaffiliated from the National Grange. Plaintiff indicates that it began working with subordinate groups of Granges in California to reorganize and recharter a new California State Grange which process has recently been completed. The new "Chartered California State Grange" recently filed a complaint-in-intervention. Plaintiff states that the Unchartered State Grange and its individually named executive committee members refuse to relinquish possession and control of Grange property as required by the bylaws of the Order. Plaintiff indicates that it seeks to amend the complaint to reflect that the instant dispute now focuses on whether the organization voluntarily disassociating from the Order may maintain possession and control of property acquired as part of the Order. The proposed SAC adds three new declaratory relief causes of action. Trial is set for June 1, 2015.

"Trial courts are vested with the discretion to allow amendments in the furtherance of justice... That Trial courts are to liberally permit such amendments, at any stage of the proceeding, has been established policy in this state...resting on the fundamental policy that cases should be decided on the merits." (*Hirsa v Superior Court* (1981) 118 Cal.App.3d 486, 488-489.) Judicial policy favors resolution of all disputed matters between the parties in the same lawsuit. Thus, the court's discretion will usually be

exercised liberally to permit amendment of the pleadings. See *Nestle v. Santa Monica* (1972) 6 Cal.3d 920,939; *Mabie V. Hyatt* (1998) 61 Cal. App.4th 581, 596 (citing text). *Howard v. County of San Diego* (2010)184 Cal.App.4th 1422, 1428." California Civil Procedure Before Trial (2012, Rutter) § 6:638 - 6:339. The power of the courts to allow amendment of pleadings is to be liberally exercised so that cases may be decided on their merits (*Desny v. Wilder* (1956) 46 Cal. 2d 715, 751; *Klopstock v. Superior Court* (1941) 17 Cal. 2d 13, 19-20, 22. The amendment here is proper.

Defendants California State Grange, et al. oppose the motion on the basis that it will fundamentally alter the lawsuit five months before trial because it seeks relief related to property of nearly 200 separate non-profit corporations without actually joining them. Defendants argue that they would be without time to file dispositive motions prior to the June 1, 2015 trial and will have limited time to conduct discovery. They also argue that the SAC may be subject to an attack based upon a failure to add necessary and indispensable parties. These are not reasons for the Court to refuse to exercise its discretion to allow the amended pleading.

With respect to the argument that the SAC may be subject to attack for failure to join necessary and indispensable parties, such an argument goes to the validity of the SAC. However, the validity of a proposed amendment is generally not considered in deciding whether to grant leave to amend. (*California Casualty General Ins. Co. v. Superior Court* (1985) 173 Cal.App.3d 274, 280-281 [disapproved on other grounds in *Kransco v. American Empire Surplus Lines Ins. Co.* (2000) 23 Cal.4th 390, 407.]) Further, the motion is not made on the eve of trial as trial is set for June 2015 and there is no showing that Plaintiff has delayed in bringing the instant motion. To the extent that Defendants complain that they will not have sufficient time to conduct discovery and file dispositive motions, given the June 1, trial date, they are free to move for a trial continuance in the presiding judge's department, and/or obtain stipulations from Plaintiff regarding deadlines for discovery, etc.

The Court declines Defendants' request to vacate the trial date at this time. Defendants are free to seek a trial continuance from the presiding judge.

The motion is granted.

Plaintiff shall file and serve the proposed second amended complaint attached to counsel's declaration as Exhibit A no later than February 26, 2015. The Court will *not* deem the proposed pleading filed and served.

Defendant Robert McFarland's joinder is granted.

The minute order is effective immediately. No formal order pursuant to CRC Rule 3.1312 or further notice is required.

COURT RULING

After hearing oral argument the Court affirmed its tentative ruling with the following modification:

The trial date of June 1, 2015 was vacated and the matter referred to the trial setting process.

This case is referred to Trial Setting Process for selection of Trial and Mandatory Settlement Conference dates. All counsel (including parties appearing in pro per) shall confer and agree upon trial and settlement conference dates. Available dates can be obtained on the court's web site at <http://www.saccourt.ca.gov>. Plaintiff's counsel must notify the court of the selection of Mandatory Settlement Conference and Trial dates no later than 60 days after 02/19/2015 , by completing the request form at <http://www.saccourt.ca.gov/civil/trial-setting.aspx>. If the parties have not agreed on dates before the 60th day, court staff shall assign Mandatory Settlement Conference and Trial dates that are next available, unless an extension of time has been granted by the appropriate Case Management Program Judge.