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4	ÔËZŠÔÖ Hearing Date/Time: May 12, 2025 ÔŒDÔÂVAG-ËËËG FG Ë ÂJÔŒ			
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7		SUPERIOR COURT OF WASHINGTON		
8	FOR KING	COUNTY		
9	ELIZABETH A. CAMPBELL, an individual,			
10	Plaintiff,	No. 23-2-25128-8 SEA (Consolidated with No. 23-2-25195-4 SEA)		
11	V.	(,		
12	LARS CHRISTIAN MATTHIESEN,	DEFENDANTS' ALAIMO, OLSON,		
13	SHARON LUCAS, TOENE HAYES, KRISTINE LEANDER, SARAH D.	AND SUND'S OPPOSITION TO PLAINTIFF'S MOTION FOR		
13	ALAIMO, SWEDISH CULTURAL CENTER d/b/a the SWEDISH CLUB,	LEAVE TO FILE THIRD AMENDED COMPLAINT [CR 15(a)]		
14	GARY SUND, SHAMA ALBRIGHT, MOLLY OLSON SMITH, MARY			
	EMERSON, IB R. ODDERSON,			
16	LANGDON L. MILLER, NEIL SNYDER, KRIS E. JOHANSSON, MARTIN K.			
17	JOHANSSON, ANNA FAINO and LANE POWELL PC,			
18	Defendants.			
19				
20		ND RELIEF REQUESTED		
21	Plaintiff's proposed Third Amended Com	plaint is nothing more than an improper attempt		
22	to add claims that have previously been dismissed and have no basis in fact or law. Plaintiff			
23	admits in her opening paragraph and throughou	t the Motion to violating CR 11 because these		
24	added claims are not based on newly discovered t	facts, but on anticipated interrogatory responses		
25	that have yet to be produced to Plaintiff. See gen	nerally, Motion. Adding any of the new claims		
	is premature and futile without any new facts to support their addition. Additionally, Plaintiff i DEFENDANTS' ALAIMO, OLSON, AND SUND'S OPPOSITION TO PLAINTIFF'S MOTION FOR			
	LEAVE TO FILE THIRD AMENDED COMPLAINT [CR 15(a)] - 1 1081932	1000 Second Ave., 30 th Floor, Seattle, WA 98104 Tel. 206.462.6700 Fax 206.462.6701		

taking a second bite of the apple by asking the Court to essentially rule on a motion for reconsideration in a different form and to disregard Plaintiff's currently pending appeal related to the dismissed claims. Finally, adding these claims prejudices Defendants Alaimo, Olson, and Sund by causing undue delay, jury confusion, the introduction of remote issues, and a lengthier trial. Therefore, Defendants Alaimo, Olson, and Sund respectfully request that the Court deny Plaintiff's Motion to Amend.

II. RELEVANT FACTS

A. Plaintiff's Newly Added Claims

On April 15, 2025, the Court issued an Order Realigning Caption *sua sponte* directing Plaintiff to file an Amended Complaint within seven days which re-numbered the surviving causes of action and identifies surviving defendants. *See* Sub. No. 169. The order specifically states that the filing of this Amended Complaint is only for purposes of referencing all causes of action and surviving defendants within one complaint. *Id* at 2. The Court further specified that this order did not permit changes as to the substance of claims previously established. *Id* at 2.

On April 21, 2025, Plaintiff filed her Second Amended Complaint. Sub. No. 180. The Second Amended Complaint asserts 56 causes of action against sixteen surviving defendants. *Id.* The same day, Plaintiff filed a Motion for Leave to File Third Amended Complaint. Sub. No. 183. Her proposed Third Amended Complaint added no new facts but instead amended Claim 27 (Aiding and Abetting) against Sarah Alaimo and added four additional claims against Gary Sund, Molly Olson, and Sarah Alaimo. *See* Sub. No. 184 (hereafter, "Proposed Complaint") at pp. 340, 367-69. These claims are Tortious Interference with Business Relationship against Defendants Sund and Olson, Conspiracy against Defendants Sund, Olson, and Alaimo, and Breach of Fiduciary Duty against Defendants Sund, Olson, and Alaimo. *Id.* Plaintiff asserts the proposed claims for Conspiracy and Breach of Fiduciary Duty in her Proposed Third Amended Complaint for the first time. *Compare* Proposed Complaint, *with* King County Superior Court Cause Number 23-2-25195-4 SEA, Sub. No. 17, *and* King County Superior Court Cause Number

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|| 23-2-25128-8 SEA, Sub. No. 180.

B. The Court's Order Previously Dismissing Claims Against Defendants Olson and Sund for Tortious Interference with Contract

Plaintiff originally plead claims of Tortious Interference with Contract against Defendants Olson and Sund on March 11, 2024, in her original Amended Complaint. *See* King County Superior Court Cause Number 23-2-25195-4 SEA, Sub. No. 17 at pp. 329, 342-343. Here, Plaintiff seeks to introduce claims of Tortious Interference with Business Relationship. Proposed Third Amended Complaint at pp. 367-368. While titled differently, these claims are the same as the claims Plaintiff asserts in her Third Amended Complaint because the elements are identical and appear copy and pasted. *Compare id.*, *with* Proposed Complaint at pp. 367-69. Because Plaintiff does not plead any new facts in her Proposed Third Amended Complaint, the factual allegations supporting both claims are identical as well.

The Court dismissed the claims of Tortious Interference with Contract against Defendants Olson and Sund on September 27, 2024. *See* King County Superior Court Cause Number 23-2-25195-4 SEA, Sub. Nos. 363, 365. Plaintiff has appealed these dismissals. *See id.* at Sub. No. 382, ¶¶4, 6. It is undisputed that the Court of Appeals has not yet ruled on Plaintiff's Motion for Discretionary Review.

C. Plaintiffs Waited Over a Year to File this Motion

Plaintiff first filed suit against Defendants Alaimo, Olson, and Sund on December 19, 2023, asserting 85 separate causes of action. *See* King County Superior Court Cause Number 23-2-25195-4 SEA, Sub. No. 1. Soon after, on March 11, 2024, Plaintiff filed her First Amended Complaint, adding hundreds of pages of additional alleged facts and alleging 84 causes of action. *Id.* at Sub. No. 17. No discovery has occurred since the filing of her First Amended Complaint, other than Plaintiff serving Defendants the discovery requests she references in her motion that are currently pending. Stated differently, Plaintiff's motion does not rely on new evidence she has obtained through discovery.

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III. ISSUES PRESENTED

1. Whether the Court should deny Plaintiff's request for leave to file a Third Amended Complaint because it futile and prejudices Defendants Alaimo, Olson, and Sund by reasserting claims that the Court previously dismissed and is currently up on appeal, without citing to any newly obtained evidence?

2. Whether the Court should deny amendment because it prejudices Defendants Alaimo, Olson, and Sund by causing undue delay, unfair surprise, jury confusion, the introduction of remote issues, or a lengthy trial?

IV. EVIDENCE RELIED UPON

This opposition relies on the pleadings and papers filed in this matter, as well as the consolidated cases.

V. LEGAL ARGUMENT

Leave to amend should be denied "where prejudice to the opposing party would result." *Caruso v. Local Union No. 690 Int'l Brotherhood of Teamsters*, 100 Wn.2d 343, 349, 670 P.2d 240 (1993). In determining if the opposing party would be prejudiced, courts consider whether amendment would cause undue delay, unfair surprise, the possibility of jury confusion, the introduction of remote issues, or a lengthy trial to ensue. *Watson v. Emard*, 165 Wn. App. 691, 697, 267 P.3d 1048 (2011). The presence of any one of the above factors is a proper ground for the denial of a motion for leave to amend. *Dewey v. Tacoma School Dist. No. 10*, 95 Wn. App. 18, 26-28, 974 P.2d 847 (1999). Additionally, when an amendment would be futile, a court is within its discretion to deny amendment. *R.N. v. Kiwanis Int'l*, 19 Wn. App. 2d 389, 416, 496 P.3d 748 (2021). Here, Plaintiff's request for leave to file a Third Amended Complaint should be denied because it would cause prejudice to Defendants and would be futile as the added allegations have previously been dismissed and Plaintiff cites to no new evidence to support realleging these claims.

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Amendment Should be Denied Because the Proposed Amended Complaint A. Would Violate CR 11

CR 11 requires parties, or their attorneys if represented, to date and sign all pleadings, motions and legal memoranda. Such signature constitutes the party's or attorney's certification that to the best of the party's or attorney's knowledge, information, and belief, formed after reasonable inquiry it [the pleading, motion or memoranda] is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. The purpose of CR 11 is to deter baseless filings and to curb abuses of the judicial system. See, e.g., Biggs v. Vail, 124 Wn.2d 193, 196, 876 P.2d 448 (1994).

Plaintiff admits that she has filed her Motion without any new factual evidence to support the amendment adding these claims, stating that the amendments are based on "anticipated" evidence that she expects to receive from her pending discovery requests. See generally, Motion. This is improper. Plaintiff admits that this motion is not grounded in facts she possesses. See generally, Motion. As such, this proposed Third Amended Complaint is precisely the type of baseless filing CR 11 is intended to deter, and Plaintiff's Motion should be denied.

B. Amendment Should be Denied Because Plaintiff Alleges No New Facts or **Evidence**

Plaintiff admits that two of the claims she realleges in her Proposed Third Amended Complaint have already been dismissed by the Court, and that no discovery has occurred to justify their inclusion. Motion at 1-2. Again, she relies on "anticipated" evidence that she claims will support these claims. Id. This Motion is untimely and premature since no new evidence currently supports reasserting claims that have already been dismissed. Hypothetical and speculative future evidence, even based on a truly-held suspicion that discovery will yield material evidence, does not replace relevant allegations or facts.

Furthermore, Plaintiff's appeal of the dismissed claims which she seeks to reinstate is

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currently pending before the Court of Appeals. Reasserting these claims is essentially another attempt to file an untimely motion for reconsideration, or to circumvent an issue previously decided and currently being considered by another higher court. Because the claims of Tortious Interference have already been dismissed and are currently pending before the Court of Appeals, Plaintiff's Motion should be denied.

C. Amendment Should Be Denied as Futile

Plaintiff concedes that her Third Amended Complaint as drafted does not allege facts sufficient to add any of the new four claims. Motion at 4. Again, Plaintiff relies on "anticipated interrogatory responses" to support adding these new claims and realleging those that have already been dismissed. This is the very definition of futile. Plaintiff cannot "cure" deficiencies in previously-dismissed claims, as she seeks to do, by citing "anticipated discovery response." *See id.* (asserting "the anticipated interrogatory responses...cur[e] the earlier dismissal's deficiencies...")

Plaintiff also concedes that two of the claims alleged in the Proposed Third Amended Complaint have previously been dismissed. *See generally*, Motion. There is currently no factual basis for realleging the claims that have previously been dismissed. With no new factual evidence to reassert these claims, the Court's ruling dismissing these claims is binding. *See Lodis v. Corbis Holdings, Inc.*, 192 Wn. App. 30, 56, 366 P.3d 1246 (2015) ("The law of the case principle relates to (a) the binding force of trial court rulings during later stages of the trial ..."). Without new evidence, there would be no basis for the Court to reach a different conclusion on previously dismissed claims, and allowing the amendment would therefore create needless additional work for Defendants and the Court to address said claims all over again.

D. Amendment Would Prejudice Defendants

Even if the amendments were not in violation of court rules, premature, and futile, these amendments would also prejudice Defendants due to undue delay, jury confusion, and increasing the length of trial. Each of these factors establishes prejudice and supports denial.

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<u>Undue Delay</u>: Regarding the two new claims that had not been previously dismissed, Plaintiff does not allege new facts to support these claims and therefore had the ability to include these in her original Complaint filed over a year ago. Plaintiff is not adding these claims based on any new evidence she has received through discovery and therefore there is no reason she could not have included these in her original Complaint.

Jury Confusion and Increasing the Length of Trial: These factors also support denial. Even if Plaintiff's "anticipated" evidence would be a basis for amendment (and it is not), adding additional claims to an already lengthy trial and Complaint only adds more confusion for the jury and will only add time to an already lengthy trial.

<u>Undue Cost</u>: Allowing Plaintiff to continually add claims to her Complaint will prejudice Defendants because it will impose additional costs on Defendants that Plaintiff does not equally bear, creating an endless process throughout the pendency of this case. Allowing Plaintiff to continually add new claims increases the costs for defending the case, while Plaintiff has been found indigent and incurs no additional costs for filing and pursuing new frivolous claims, especially when they are not based in evidence. This prejudices Defendants and not Plaintiff. Overall, the Proposed Third Amended Complaint therefore prejudices the Defendants, will waste the Court's resources, and should be denied.

On the other hand, Plaintiff has already had the opportunity to assert an incredible 85 causes of action in her First Amended Complaint, and currently still has an incredible 56 causes of action pending in her Second Amended Complaint. She will not be prejudiced if the Court denies the opportunity to add new claims more than a year after she filed her First Amended Complaint

VI. CONCLUSION

For all the foregoing reasons, Defendants Alaimo, Olson, and Sund respectfully request the Court deny Plaintiff's Motion to Amend.

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2	DATED this 6th day of May, 2025.	
3		certify that this memorandum contains no more
4	ti	han Í,922 words in compliance with the King County Local Civil Rules.
5		ATTERSON BUCHANAN
6	l F	OBES & LEITCH, INC., P.S.
7	E	By: MStarly
8 9		Megan F. Starks, SSBA 39640 Sarah A. Tatistcheff, WSBA 51098 Of Attorneys for Defendants Sarah Alaimo and
10		Molly Olson
11)'HAGAN MEYER PLLC
12		I HAOAN METERTLEC
13	E	By: <u>s/ Brad Bigos</u> Brad Bigos, WSBA 52297
14		Alex Lopez, WSBA 62867 Attorneys for Defendant Gary Sund
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CERTIFICATE OF SERVICE

I, Aaron Taylor, hereby declare that on this 6th day of May, 2025, I caused to be delivered via the method listed below the document to which this Certificate of Service is attached (plus any exhibits and/or attachments) to the following

5	ATTORNEY NAME & ADDRESS	METHOD OF DELIVERY
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8	Telephone: 206-769-8459	
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9		Electron's Meth
10	Attorneys for Kristine Leander and Toene Hayes:	Electronic Mail U.S. Mail
11	Karen Kalzer, WSBA No. 25429	■ Other: King County E-Filing System
	Helsell Fetterman	
12	800 Fifth Avenue, Suite 3200 Seattle, WA 98104	
13	Email: <u>kkalzer@helsell.com</u>	
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14	Of Attorneys for Defendants Swedish Cultural Center DBA Swedish Club,	Electronic Mail U.S. Mail
15	Swedish Club Foundation, Langdon Miller,	 Other: King County E-Filing System
16	Kris Johansson, Gary Sund, and Sharon	
	Lucas:	
17	Brad Bigos, WSBA No. 52297 O'Hagan Meyer PLLC	
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1	mmendezpintado@mpbf.com	
2		
3	I certify under penalty of perjury that the foregoing is true and correct.	
4	DATED this 6th day of May, 2025, at Seattle, Washington.	
5	<u>s/ Aaron Taylor</u> Aaron Taylor Legal Assistant	
6	Legal Ass	istant
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