Dkt. #204

HONORABLE JUDGE LARRAÑAGA
Hearing Date: May 12, 2025
WITHOUT ORAL ARGUMENT

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN THE COUNTY OF KING

ELIZABETH A. CAMPBELL, an individual,

Plaintiff,

v.

LARS CHRISTIAN MATTHIESEN, SHARON LUCAS, TOENE HAYES, KRISTINE LEANDER, SARAH D. ALAIMO, SWEDISH CULTURAL CENTER d/b/a the SWEDISH CLUB, GARY SUND, SHAMA ALBRIGHT, MOLLY OLSON SMITH, MARY EMERSON, IB R. ODDERSON, LANGDON L. MILLER, NEIL SNYDER, KRIS E. JOHANSSON, MARTIN K. JOHANSSON, ANNA FAINO and LANE POWELL PC,

Defendants.

NO. 23-2-25128-8 SEA

PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT [CR 15(a)]

I. INTRODUCTION

Plaintiff Elizabeth A. Campbell, pro se, replies to Defendants Alaimo, Olson, and Sund's opposition (Dkt. #195) to her Motion for Leave to File a Third Amended Complaint (TAC) (Dkt. #183). Defendants' claims of CR 11 violations, futility, prejudice, and appeal-related bars misapply caselaw and ignore the procedural timeline that delayed discovery. The TAC reinstates tortious interference claims and adds conspiracy and fiduciary duty claims, supported by allegations and anticipated interrogatories due May 16, 2025. CR 15(a)'s liberal standard favors granting leave, as the amendment is timely, non-prejudicial, non-futile, and in good faith.

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II. PROCEDURAL TIMELINE

Defendants' "undue delay" argument ignores the case's timeline including the part they played in adding time to it, which delayed discovery until March 4, 2025:

- March 11, 2024: Plaintiff filed the First Amended Complaint (FAC) (Case No. 23-2-25195-4 SEA, Dkt. #17).
- April 26, 2024: Defendants filed 21 motions to dismiss and one summary judgment motion.
- June 28, 2024: Motions heard.
- September 27, 2024: Court dismissed claims, including tortious interference against Sund and Olson (Dkt. #363, #365).
- October 14–23, 2024: Defendant Groups 1 and 4 answered the FAC.
- October 25, 2024: Plaintiff's subpoena motion was not addressed.
- October 28, 2024: Plaintiff appealed dismissals (Dkt. #382).
- November 4, 2024: Defendant Group 1 counsels withdrew; new counsel appeared.
- November 12–14, 2024: Defendant Group 4 and court consolidated cases.
- November 27, 2024: Parties agreed to a 60-day stay.
- January–March 2025: Defendants' scheduling conflicts and new counsel for Groups 2 and 3 (Jan. 27, 2025) delay case. Discovery stay lifted March 4, 2025 (Dkt. #170).
- April 16, 2025: Plaintiff served interrogatories (Supp. Decl., Ex. A, Dkt. #184).
- April 21, 2025: Plaintiff filed the Second Amended Complaint (Dkt. #180) and TAC motion (Dkt. #183).

Defendants' motions, counsel changes, and stays delayed discovery. Plaintiff acted promptly, serving interrogatories and filing the TAC motion within six weeks of discovery opening, aligning with CR 15(a)'s liberal policy (*Karlberg v. Otten,* 167 Wn. App. 522, 529, 280 P.3d 1123 (2012)).

III. LEGAL ARGUMENT

Washington courts construe CR 15(a) liberally to allow full adjudication on the merits, particularly where no dispositive motion has been filed on the proposed amendments and discovery is ongoing. To deny amendment now would elevate procedural formalism over substantive justice. CR 15(a) mandates freely granting amendments when justice requires (*Wilson v. Horsley*, 137 Wn.2d 500, 505, 974 P.2d 316 (1999)). Defendants must show prejudice,

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futility, or bad faith to deny leave (*Herron v. Tribune Publ'g Co.*, 108 Wn.2d 162, 165, 736 P.2d 249 (1987)). Their arguments fail.

A. No CR 11 Violation

Defendants claim Plaintiff's reliance on "anticipated" interrogatories violates CR 11, citing *Biggs v. Vail*, 124 Wn.2d 193, 876 P.2d 448 (1994) (Opp. at 5). *Biggs* sanctioned baseless filings lacking any support (id. at 196). Here, the TAC rests on:

- Existing allegations of governance failures, election interference, and financial mismanagement (Supp. Decl., Ex. B, Dkt. #184).
- Interrogatory No. 12 to Sund: "Identify all individuals present during your April 20, 2022 speech, specifying member or non-member status, and describe attendance context." This targets the privilege defense from Motion to Dismiss #10, which assumed member-only presence. Non-member presence negates privilege, curing prior dismissals. Interrogatory No. 8 to Alaimo seeks HR records of governance decisions, supporting conspiracy and fiduciary duty claims (Supp. Decl., Ex. A, Dkt. #184).
- Plaintiff's good-faith declarations (Decl., Dkt. #183; Supp. Decl., Dkt. #184).

Amendments based on anticipated discovery are permissible when supported by allegations (*Karlberg v. Otten*, 167 Wn. App. 522, 529, 280 P.3d 1123 (2012)). Pro se litigants receive procedural latitude (*In re Marriage of Giordano*, 127 Wn. App. 1006, 2005 WL 1060312 (2005)). Unlike *Biggs*, Plaintiff's TAC is grounded in facts and discovery, satisfying CR 11.

B. The Amendment Is Not Futile

Defendants' invocation of privilege (e.g., litigation or intra-organizational) constitutes an affirmative defense, not a basis to bar amendment under CR 15(a). Whether that defense will apply to specific claims or facts is an issue for summary judgment, not a motion for leave to amend.

Defendants also argue futilely, citing *R.N. v. Kiwanis Int'l*, 19 Wn. App. 2d 389, 416, 496 P.3d 748 (2021), and *Lodis v. Corbis Holdings, Inc.*, 192 Wn. App. 30, 366 P.3d 1246 (2015) (Opp. at 6). These cases are inapposite:

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- *R.N*. denied amendment for legally deficient claims (id. at 416). The TAC's claims—tortious interference (COAs 57–58), conspiracy, and fiduciary duty (COAs 59–60)—are plausible under *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007), alleging specific acts (e.g., election interference, $455,000–$750,000 losses) (TAC, Dkt. #184 at 367–369).
- *Lodis* applied the "law of the case" to trial rulings (id. at 56). CR 15(a) allows amendments to cure deficiencies with new evidence (*Foman v. Davis,* 371 U.S. 178, 182 (1962)). Interrogatory responses will address prior dismissal issues, making Lodis irrelevant.

The TAC's claims meet *Twombly's* plausibility standard, however, to the extent Defendants rely on *Bell Atl. Corp. v. Twombly* or *Ashcroft v. Iqbal*, Washington courts do not apply the federal plausibility standard. Instead, Washington maintains a notice pleading standard, under which a complaint is sufficient if it gives fair notice of the claim and the relief sought. (*McCurry v. Chevy Chase Bank*, 169 Wn.2d 96, 101 (2010)). The TAC meets and exceeds that standard.

C. The Appeal Does Not Bar Amendment

Defendants claim the pending appeal precludes reinstatement, without authority (Opp. at 5–6). Amendments are allowed during appeals if they don't interfere with appellate jurisdiction (*State v. Moon*, 108 Wn. App. 1011, 2001 WL 1091977 (2001)). The appeal concerns the September 27, 2024 dismissals based on then-available evidence (Dkt. #382). The TAC's reinstatement relies on new interrogatory evidence, distinct from the appellate record. Conspiracy and fiduciary duty claims are unrelated to the appeal. Amendment advances justice without conflict (*Foman,* 371 U.S. at 182).

See also *RAP 7.2(e)* (trial court retains authority to act in furtherance of appeal unless action would interfere with appellate jurisdiction). Because the TAC does not undo or relitigate the dismissed claims on appeal, but instead supplements the record with new theories and evidence, no conflict arises.

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D. Preserving the Record for Appeal

The TAC strengthens the appellate record by incorporating new evidence and claims, preserving Plaintiff's rights. Interrogatory No. 12's expected confirmation of non-member presence during Sund's speech directly rebuts the privilege defense, addressing the tortious interference dismissals' basis (Dkt. #363, #365). Conspiracy and fiduciary duty claims, supported by allegations of governance failures and financial mismanagement (Supp. Decl., Ex. B, Dkt. #184), ensure all related issues are litigated. Without amendment, the record risks omitting critical discovery, limiting appellate review (RAP 2.5(a)). The TAC's inclusion now avoids later claims of waived arguments, protecting Plaintiff's appeal while complying with CR 15(a)'s liberal standard (*Wilson*, 137 Wn.2d at 505).

E. No Prejudice to Defendants

Defendants allege prejudice from delay, jury confusion, trial length, and costs, citing *Caruso v. Local Union No. 690*, 100 Wn.2d 343, 670 P.2d 240 (1983); *Watson v. Emard*, 165 Wn. App. 691, 267 P.3d 1048 (2011); and *Dewey v. Tacoma Sch. Dist. No. 10*, 95 Wn. App. 18, 974 P.2d 847 (1999) (Opp. at 4, 6–7). These cases are distinguishable:

- *Caruso f*ound prejudice from late amendments disrupting discovery (id. at 349). Here, discovery is open until July 21, 2025, and trial is September 8, 2025 (Dkt. #170). The TAC's claims align with existing allegations, requiring minimal new discovery (*Doyle v. Lee,* 90 Wn. App. 109, 113, 950 P.2d 1007 (1998)).

- *Watson and Dewey* denied amendments introducing new issues late (*Watson*, 165 Wn. App. at 697; Dewey, 95 Wn. App. at 26–28). The TAC's claims are related, minimizing confusion. Four additional claims among 56 will not significantly extend trial.

- Defendants' cost claims are speculative. Existing discovery tools suffice, and Plaintiff's indigent status does not alter CR 15(a)'s standard (*Herron*, 108 Wn.2d at 165). The prospect of additional discovery does not constitute legal prejudice under *Herron*, and any burden is modest given the limited number of new claims and shared factual basis. The prospect of additional discovery does not constitute legal prejudice under *Herron*, and any burden is modest given the limited number of new claims and shared factual basis.

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Defendants show no "substantial detriment" (*Caruso,* 100 Wn.2d at 349). The timeline confirms Plaintiff's diligence despite Defendants' delays.

F. Good Faith and Pro Se Status

Defendants' bad-faith insinuation lacks evidence. Plaintiff's declarations affirm good faith, supported by allegations and discovery (Decl., Dkt. #183). Pro se litigants are afforded latitude (*Giordano,* 2005 WL 1060312). The TAC refines Plaintiff's case, not harasses.

IV. CONCLUSION

Defendants' caselaw is inapposite, and their objections fail under CR 15(a)'s liberal standard. The timeline shows Plaintiff's prompt action despite Defendants' delays. The TAC is plausible, non-prejudicial, and in good faith. Plaintiff requests leave to file the TAC.

I certify that this memorandum contains 1,222 words, in compliance with the Local Civil Rules.

DATED this 8th day of May, 2025.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

I, Elizabeth A. Campbell, certify that on May 8, 2025, I caused to be served a true and correct copy of the following documents, 1) PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT [CR 15(a)] via the method indicated below and addressed to the following:

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Signed on May 8, 2025 at Seattle, Washington.

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