

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LAWRENCE P. MANLAPIT, JR.,)	
individually as father of LAWRENCE P.)	
MANLAPIT, III, DECEASED,)	Lead Case No. CV01-2019-06625
)	
Plaintiff,)	(Consolidated with Case Nos. CV01-19-23246,
vs.)	CV01-20-00653, CV01-20-02624, CV01-20-
)	07803, CV01-20-08172, and CV01-20-20819)
KRUJEX FREIGHT TRANSPORT)	
CORP.; KRUJEX TRANSPORTATION)	RULING ON MOTIONS FOR LEAVE TO FILE
CORP.; KRUJEX TRANSPORTATION)	AMENDED COMPLAINT
SYSTEMS, LLC; KRUJEX)	
LOGISTICS, INC.; ALBERTSON'S)	
COMPANIES; CORNELIU VISAN;)	
DANIEL VISAN; LIGRA VISAN;)	
STATE OF IDAHO; STATE OF)	
IDAHO DEPARTMENT OF)	
TRANSPORTATION; IDAHO STATE)	
POLICE; PENHALL COMPANY;)	
PARAMETRIX, INC.; SPECIALTY)	
CONSTRUCTION SUPPLY LLC; AND)	
DOES 1 through 150, inclusive;)	
)	
Defendants.)	
_____)	

On April 30, 2021, Plaintiff Lawrence Manlapit, Jr., Plaintiff Dorine Noroko, and Plaintiff Estate of Lawrence Manlapit, III (collectively, "Manlapit Plaintiffs") filed Manlapit Plaintiffs' Joint Motion for Leave to Amend Complaints, together with a memorandum of law. On May 10, the State of Idaho filed State of Idaho's Memorandum in Opposition to Plaintiff's Motion to Amend Complaints. On May 13, Manlapit Plaintiffs filed their Reply in Support of Manlapit Plaintiffs' Joint Motion for Leave to Amend Complaints. Also on May 13, Plaintiff Daisy Johnson filed Daisy Johnson's Joinder to Manlapit Plaintiffs' Reply Arguments in Further Support of Motion for Leave to Amend Complaints. On May 14, Plaintiff Michael Westall, Plaintiff Kimberly Westall, and

Plaintiff Estate of Karlie Westall (collectively, “Westall Plaintiffs”) filed Westall Plaintiff’s Partial Joinder in Manlapit Plaintiffs’ Reply Arguments in Further Support of Motion for Leave to Amend Complaints.

On May 3, Ms. Johnson filed Plaintiff Daisy Johnson’s Motion for Leave to File Second Amended Complaint, together with a memorandum of law.

On May 13, Defendant Krujex Freight Transport Corp., Defendant Krujex Transportation Corp., Defendant Krujex Transportations Systems, LLC, and Defendant Krujex Logistics, Inc (collectively, “Krujex”) and Defendant Cornelieu Visan, Defendant Daniel Visan, and Defendant Ligra Visaon (collectively, “Visan”) filed Krujex Defendants’ Memorandum in Opposition to Plaintiff Manlapit, Norko, and Daisy Johnson’s Motion to Amend Complaint, in which Krujex and Visan oppose the above to motions to amend. On May 14, Ms. Johnson and Plaintiff C.J. filed Johnson Plaintiffs’ Objection and Motion to Strike Krujex/Visan Defendants’ Memorandum in Opposition to Motions to Amend Complaints. Also on May 14, Manlapit Plaintiffs filed Manlapit Plaintiffs’ Reply to Krujex/Visan Defendants’ Opposition to Plaintiff Manlapit, Norko, and Daisy Johnson’s Motions to Amend Complaints.

On May 3, Westall Plaintiffs filed their Motion for Leave to file Second Amended Complaint, together with a memorandum of law.

On May 10, Defendant Penhall Company (“Penhall”) filed Defendant Penhall Company’s Memorandum in Opposition to Motion(s) for Leave to Amend, in which Penhall opposes the above three motions to amend.

Also on May 10, Defendant Specialty Construction Supply LLC (“Specialty”) filed Defendant Specialty Construction Supply LLC’s Memorandum in Opposition to Manlapit Plaintiff’s Joint Motion for Leave to Amend Complaints, Westall Plaintiffs’ Motion for Leave to File Second Amended Complaint, and Plaintiff Daisy Johnson’s Motion for Leave to File Second Amended

Complaint, together with an affidavit of counsel, in which Specialty opposes the above three motions to amend. Also on May 10, Defendant Albertsons Companies (“Albertsons”) filed a joinder in Specialty’s opposition to the above three motions to amend.

On May 17, this Court took short oral comments on the above three motions to amend.

On May 18, C.J. filed his Motion for Leave to file Amended Complaint, with its Exhibit A, a Proposed Amended Complaint and Demand for Jury Trial. In his Motion, C.J. sought leave (i) to assert a cause of action for joint and several liability against Krujex, Visan, and Albertsons; (ii) to assert a cause of action for joint and several liability against Penhall and Specialty; (iii) to assert that Ilya Tsar was a 49 C.F.R. § 390.5 statutory employee of Krujex; and (iv) to correct various factual allegations contained in the Complaint filed December 29, 2020. On July 6, Albertsons filed its Opposition to Plaintiff C.J.’s Motion for Leave to File Amended Complaint (“Opposition Memorandum”), arguing the proposed cause of action for joint and several liability against Albertsons lacked factual support and would be futile because Krujex was Albertsons’s independent contractor, not an Albertsons’s employee.

LEGAL STANDARD

When more than 21 days have passed since service of a complaint, responsive pleading, or motion, “a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.” Idaho R. Civ. P. 15(a)(2). The Idaho Supreme Court has interpreted this rule as allowing amendments unless there is “any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendment previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.” *Smith v. Great Basin Grain Co.*, 98 Idaho 266, 272-73, 561 P.2d 1299, 1305-06 (1977) (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)). In a trial court’s analysis of a motion for leave to file an amended

complaint, the court examines “whether the amended pleading sets out a valid claim, whether the opposing party would be prejudiced by any undue delay, or whether the opposing party has an available defense to the newly added claim.” *Spur Prod. v. Stoel Rives*, 142 Idaho 41, 44, 122 P.3d 300, 303 (2005). The trial court, however, is prohibited from weighing “the sufficiency of the evidence related to the additional claim.” *Id.*

Under Idaho Rule of Civil Procedure 15, amendments to pleadings are to be decided based not on technicalities but on their actual merits while ensuring pleadings provide adequate notice of both the facts and claim involved in the case. *Christenson Family Tr. v. Christenson*, 133 Idaho 866, 871, 993 P.2d 1197, 1202 (1999); *see also Smith*, 98 Idaho at 272, 561 P.2d at 1305 (“If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits.”). The issue of whether to grant leave to amend an answered complaint is within a trial court’s discretion. *Christenson Family Tr.*, 133 Idaho at 866, 993 P.2d 1202. “A court does not abuse its discretion if it correctly perceives an issue as one of discretion, acts within the boundaries of its discretion consistent with applicable legal standards, and reaches its decision by an exercise of reason.” *Id.* By contrast, if a trial court refuses to grant leave to amend without providing a justification for its decision, that decision constitutes a per se abuse of discretion. *Clark v. Olsen*, 110 Idaho 323, 326, 715 P.2d 993, 996 (1986).

ANALYSIS

There was no undue delay in C.J.’s motion because the May 6, 2021 scheduling order allowed parties consolidated in the May 2021 Second Order on Consolidation to amend their complaints until May 19, 2021 and because C.J.’s motion was timely filed on May 18. The proposed amendments would not unduly prejudice the opposing parties because joint and several liability is a foreseeable cause of action in cases involving multiple parties in relationships with one another.

Albertsons argues the joint and several liability amendment is futile because it “has no possibility of success since Albertsons has an available defense as Defendant Krujex was an independent contractor of Albertsons that was merely hired to ship apples for Albertsons.” Opp’n Mem. at 2. There is no bright-line standard for determining whether a party is an independent contractor or employee. In *State v. Sky Down Skydiving, LLC*, the Idaho Supreme Court held that whether “a worker is an independent contractor or employee is a question of fact, determined ‘on a case-by-case basis from full consideration of the facts and circumstances.’” 166 Idaho 564, 571, 462 P.3d 92, 99 (2020) (quoting *Shriner v. Rausch*, 141 Idaho 228, 231, 108 P.3d 375, 378 (2005)). While Albertsons may prove its asserted defense at trial, the availability of this defense is not a barrier to amending the complaint.

Consistent with Rule 15, leave to amend is freely granted. This motion, and the other three motions for leave to amend are granted.

CONCLUSION

Plaintiff’s Motion for Leave to File Amended Complaint is GRANTED. Plaintiff Daisy Johnson’s Motion for Leave to File Second Amended Complaint is GRANTED. Motion for Leave to File Second Amended Complaint is GRANTED. Manlapit Plaintiff’s Joint Motion for Leave to Amend Complaints is GRANTED.

IT IS SO ORDERED.

DATED: 11/3/21



PETER G. BARTON
District Judge