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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

**ORANGE COUNTY CATHOLIC
WORKER,**

Plaintiffs,

v.

ORANGE COUNTY, et al.,
Defendants.

Case No. 8:18-cv-00155 DOC (JDE)

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**~~PROPOSED~~ ORDER RE:
UNOPPOSED MOTION TO FILE
SUPPLEMENTAL COMPLAINT**

1 Before the Court is the unopposed motion by Plaintiff Orange County
2 Catholic Worker ("OCCW") to file a Supplemental Complaint naming the City of
3 Tustin as a defendant directly in Orange County Catholic Worker, et al. v. County
4 of Orange. The City of Tustin was previously named as a defendant only in the
5 cross-complaint filed by Intervenor City of Santa Ana.

6 On October 26, 2018, Plaintiff OCCW and the City of Tustin filed a Notice
7 of Conditional Settlement and Exhibit A, the signed Settlement agreement. [Doc.
8 273]. The parties informed the Court that they had reached a Settlement subject to
9 1) the Court's approval of the terms, 2) the filing of a Supplemental Complaint
10 adding Tustin as a defendant by Plaintiff OCCW and 2) the entry of dismissal with
11 prejudice, with the Court retaining jurisdiction to enforce the terms of the
12 settlement for a period of three years.

13 The motion is made pursuant to Federal Rule of Civil Procedure 15(d).
14 Federal Rule of Civil Procedure 15(d) provides that "[u]pon motion of a party the
15 court may, upon reasonable notice and upon such terms as are just, permit the party
16 to serve a supplemental pleading setting forth transactions or occurrences or events
17 which have happened since the date of the pleading sought to be supplemented."
18 Fed.R.Civ.P. 15(d). The rule vests the court with broad discretion to permit
19 supplemental pleadings. *Keith v. Volpe*, 858 F.2d 467, 473 (9th Cir. 1988). It is a
20 favored procedure because it furthers judicial economy and convenience. *Id.* Such
21 pleadings "ought to be allowed as of course, unless some particular reason for
22 disallowing them appears ..." *Keith*, 858 F.2d at 473 (quoting *New Amsterdam Cas.*
23 *Co. v. Waller*, 323 F.2d 20, 28-29 (4th Cir. 1963)).

24 To meet the showing required by Rule 15(d), a supplemental pleading need
25 only bear "some relationship" to the "subject of the original action." *Id.* at 474.
26 This is so even if the supplemental pleading adds new claims, so long as it would
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1 "promote the economical and speedy disposition of the controversy." *Id.* at 473.
2 Judicial efficiency is served when "the entire controversy between the parties could
3 be settled in one action." *Planned Parenthood v. Neely*, 130 F.3d 400, 402 (9th Cir.
4 1997) (per curiam) (internal edits and quotation marks omitted).

5 The Court finds that granting the motion in this instance will promote the
6 prompt resolution of the entire controversy between the Plaintiff OCCW and
7 Defendant City of Tustin. There is no prejudice to any other parties to the action
8 by permitting the Supplemental Complaint. *See* Wright, et al., Federal Practice
9 and Procedure § 1504, at 186-87. *See also Keith*, 858 F.2d at 475.

10 The factors courts routinely consider in deciding whether to permit the filing
11 of a supplemental complaint all weigh in favor of granting the motion in this
12 instance. For example, a frequent concern arguing against the filing of a
13 supplemental complaint is the need for extensive new discovery; however, the
14 Ninth Circuit has found no prejudice if the supplemental complaint requires only
15 "minimal further discovery" and most of the required information already exists in
16 the defendant's own files. *See LaSalvia v. United Dairywomen of Ariz.*, 804 F.2d
17 1113, 1119 (9th Cir. 1986).

18 In this instance, the parties also filed a conditional settlement agreement,
19 which further supports granting the motion. The parties request that the
20 supplemental complaint be filed and advise the Court that, upon approval of the
21 settlement, Plaintiff will submit a proposed Order re Dismissal and Retention of
22 Jurisdiction, so no discovery or other litigation is contemplated.

23 The Court believes that amendment would be not be futile as the proposed
24 Defendant City does not oppose the filing of the supplemental pleading to facilitate
25 a pre-litigation settlement in this action. *See Burka v. Aetna Life Ins. Co.*, 945 F.
26 Supp. 313, 318 (D.D.C. 1996)
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1 The Court finds that there is good reason to permit the filing of the
2 unopposed Supplemental Complaint and to approve the terms of the Settlement
3 submitted by the Plaintiff OCCW and the Defendant City of Tustin.

4 Accordingly, the Supplemental Complaint is ordered filed *nunc pro tunc*.
5 Within three (3) days, the parties are to submit a Proposed Order of Dismissal with
6 Retention of Jurisdiction for the Court's review and approval, incorporating the
7 terms of the settlement agreement.

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9 Dated: November 2, 2018 David O. Carter

10 UNITED STATES DISTRICT JUDGE

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12 Lodged by:

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15 LAW OFFICE OF CAROL A. SOBEL
16 SCHONBRUN SEPLOW HARRIS & HOFFMAN

17 /s/ Carol A. Sobel

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19 Attorneys for Plaintiffs
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