

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

TERRY BAYLES;	)	
KERRY WELBORN;	)	
AUSTIN CLAYLON;	)	
TONY BLAKE;	)	
MISTY CAMPBELL;	)	
BILLY CHASE;	)	
JEREMIAH COLBERT;	)	No. CIV-25-370
GEORGE DAVENPORT;	)	
CHRISTOPHER GRAY;	)	
JAMES HENSON;	)	
PEYTON JONES;	)	
JAMES GEOFFREY;	)	
ADELBY MARTINEZ;	)	
JAMES MCKIBBEN;	)	
Petitioners	)	
	)	
-vs-	)	
	)	
THE CHOCTAW NATION OF	)	
OKLAHOMA;	)	
ROBERT APALA, CORRECTIONAL	)	
MANAGER CHOCTAW NATION;	)	
AMY PIERCE, DISTRICT COURT	)	
CHIEF JUDGE OF THE CHOCTAW	)	
NATION;	)	
GARY BATTON, CHIEF OF THE	)	
CHOCTAW NATION;	)	
CHOCTAW COUNTY	)	
SHERIFF, TERRY PARK, EX. REL.	)	
COUNTY JAIL	)	
Respondents	)	

OPPOSED MOTION FOR LEAVE TO AMEND COMPLAINT AND ADD
DEFENDANTS

COMES NOW, the Plaintiffs, by and through their attorneys of record, and hereby moves this Court pursuant to Rules 15(a)¹ and Rules 20 and 21² of the Federal Rules of Civil Procedure, as well as LCvR 7.1 (k), Plaintiffs hereby respectfully move the Court for Leave to Amend to add Defendants a copy of the proposed Second Amended Complaint is attached hereto as Exhibit A. The Plaintiffs' Amended Complaint would add Respondents Mr. Robert Apala, Manager of Corrections for the Choctaw Nation, Ms. Amy Pierce, Chief Judge for the District Court of the Choctaw Nation, and Mr. Gary Batton, Chief of the Choctaw Nation. (*See* Exhibit A). Petitioners contacted opposing counsel according to Local Rule 7.1(k) asking if the parties objected to this motion, all parties objected but did not provide any basis for such objection pursuant to the local rule.

Courts follow a well-established policy of providing for leave to be “freely given when justice so requires.” Fed. R. Civ. P. 15 (a) (2). Here, allowing amendment would permit the additionally named Defendants to join this litigation without any resulting prejudice to the Defendants, as no Defendant has formally answered at this time. Additionally, the substantive allegations in the complaint are facts common to each Plaintiff in this action. Furthermore, any delay in the litigation would be minimized because a scheduling order has not yet been established in this matter. Additionally, amending the complaint is clearly the most efficient way to proceed, as the Plaintiffs would otherwise be forced to file a new action raising identical claims against the

¹ Rule 15(a) provides that a party may amend its pleading once as a matter of course within 21 days after serving the pleading or if a responsive pleading is required, the earlier of 21 days after service or 21 days after service of a motion under Rule 12(b), (e) or (f). In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. Fed. R. Civ. P. 15(a). Because Defendants have filed Motion to Dismiss pursuant to 12(b)(1) and more than 21 days have elapsed since that filing, leave of Court is required.

² Rules 20 and 21 govern joinder of additional parties. Rule 21 specifies that “[o]n motion or on its own, the court may at any time, or just terms, add or drop a party,” and courts apply the same liberal standard to joinder under Rule 21 that they do to amendments to pleadings under Rule 15. *Health Research Grp. v. Kennedy*, 82 F.R.D. 21, 24-25 (D.D.C. 1979).

new Defendant they seek to add. *See Health Resources Grp.*, 82 F.R.D. at 28-29 (“if the Court refused leave to amend, these [plaintiffs’] could simply start this action over again at the complaint stage.”).

Here, although Defendants oppose joinder of an additional Defendants despite judicial economy and the Defendants Plaintiff seeks to add being a necessary party to Plaintiffs claims, Plaintiffs would be forced to file a separate actions in this federal Court, leading to the exact same issue being submitted to this Court at a later time, as Plaintiffs would then move to consolidate said cases on the same grounds presented here – pursuant to common questions of law or fact and in the interest of judicial economy.

More importantly, leave to amend should be granted in this instance because the Defendants to be added are necessary parties for Plaintiffs to assert their claims. The Federal Rules of Civil Procedure number 19 states:

(a) Persons Required to Be Joined if Feasible.

(1) Required Party. A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if: (A) in that person’s absence, the court cannot accord complete relief among existing parties; or (B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person’s absence may: (i) as a practical matter impair or impede the person’s ability to protect the interest; or(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest. *USCS Fed Rules Civ Proc R 19*

Here, the Defendants to be added are necessary parties for the Plaintiffs to assert their claims in this matter. Further, “[t]he general policy of Rule 19, as with the Federal Rules of Civil Procedure in general, is "the impulse . . . toward entertaining the broadest possible scope of action consistent with fairness to the parties; joinder of claims, parties and remedies is strongly encouraged." *Mayer Paving & Asphalt Co. v. Gen. Dynamics Corp.*, 486 F.2d 763, 771 (7th Cir. 1973) In this case, Plaintiffs are timely in seeking to amend their complaint, as the allegations against the new

Defendants were only recently discovered and were not previously known at the time Plaintiffs initially filed the lawsuit.

Additionally, Rule 21 provides that parties may be added by order of the court at any time, and also mandates that the misjoinder of parties does not constitute grounds for dismissing an action. Therefore, absent prejudice to an existing party, undue delay, or bad faith, the addition of parties is a “matter to be treated liberally.” *Helene Curtis Industries, Inc. v. Sales Affiliates, Inc.*, 105 F. Supp. 886, 901 (S.D.N.Y. 1952). As the Supreme Court stated in *Mullaney v. Anderson*, 342 U.S. 415, 417 (1952), a contrary rule “would entail needless waste and runs counter to effective judicial administration.”³ See also Charles Alan Wright et al., 7 Federal Practice and Procedure § 1681, 473 (3d ed. 2001) (Rule 21 “provides the courts with a valuable procedural device that can be used to avoid multiple litigation and to promote liberal joinder of parties”).

Overall, granting Plaintiffs’ motion at this stage would cause neither prejudice nor delay to Defendants, as the scheduling order has not yet been entered in this matter, and Plaintiffs do not object to allowing Defendants reasonable additional time to respond and/or answer. On the other hand, denial of leave to amend would result in injustice regarding the invaluable claims that the Plaintiffs could assert, as the Defendants to be added are necessary parties and essential to Plaintiffs’ ability to assert all of their claims.

CONCLUSION

For the reasons stated above, Plaintiffs respectfully request that the Court grant the Plaintiffs’ Motion for Leave to add a Defendants, and order that the Plaintiffs’ Motion for Leave to add Defendants be entered on the docket of Case No. 25-CV-370, effective as of the date of the

³ In *Mullaney*, the Court allowed nonresident fishermen to be added as party plaintiffs after defendants challenged on appeal the standing of the existing plaintiff to raise the constitutional claims of nonresident fishermen against a challenged territorial licensing scheme. The Court held that there was no prejudice and no impact on the litigation caused by the addition since there were no new claims made by the added parties. 342 U.S. at 417.

Court's order. Attached hereto is Plaintiffs proposed Second Amended Complaint for this Court's consideration.

Respectfully Submitted,

Respectfully Submitted,

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ATTORNEYS FOR PETITIONERS

Certificate of Service

I hereby certify that on the 23rd day of December 2025, I electronically transmitted the attached document to the Clerk of Court using the Electronic Case Filing System for filing. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the ECF System.

/s/ Garrett A. Eller