

Question

Plaintiff has requested leave to amend to add new facts, including additional threats and predicate acts occurring after the FAC was filed. Leave to amend should be freely given when justice so requires, especially where new facts may cure pleading deficiencies (Fed. R. Civ. P. 15(a); *Foman v. Davis*, 371 U.S. 178, 182 (1962)). If the court finds the current allegations insufficient, it should grant leave to amend to allow Plaintiff to plead additional facts supporting open-ended continuity.

Answer (U.S. Federal)

Short response

Leave to amend should be freely granted under Federal Rule of Civil Procedure 15(a) when justice so requires, particularly where new facts may cure pleading deficiencies, unless there is a clear reason such as undue delay, bad faith, prejudice, or futility. If the current allegations are insufficient, the court should generally permit amendment to allow the plaintiff to plead additional facts, including those supporting open-ended continuity.

Summary

Federal courts apply a liberal standard to motions for leave to amend pleadings under Rule 15(a), as articulated by the Supreme Court in [Foman v. Davis](#) and consistently reaffirmed by circuit and district courts. Unless there is a specific and compelling reason—such as undue delay, bad faith, repeated failure to cure deficiencies, undue prejudice to the opposing party, or futility—leave to amend should be granted, especially where new facts may address deficiencies in the complaint.

This principle is particularly relevant when a plaintiff seeks to add facts that occurred after the filing of the operative complaint, such as additional threats or predicate acts, which may be necessary to establish elements like open-ended continuity in a RICO claim. Courts are encouraged to allow such amendments to ensure that claims are decided on their merits rather than on technicalities, provided the amendment is not sought for improper purposes and would not be futile.

Background and Relevant Law

Federal Rule of Civil Procedure 15(a)

The central legislative authority governing amendments to pleadings in federal court is Federal Rule of Civil Procedure 15(a). Rule 15(a)(2) provides that, after a party has amended once as a matter of course or after the time

for such amendment has passed, further amendments require either the opposing party's written consent or the court's leave, which "shall be freely given when justice so requires." This rule is designed to maximize the opportunity for claims to be decided on their merits rather than on procedural technicalities, as emphasized in [SCO Grp., Inc. v. Int'l Bus. Machs. Corp.](#), [879 F.3d 1062](#) (10th Cir. 2018).

Supreme Court Precedent: [Foman v. Davis](#)

The Supreme Court in [Foman v. Davis](#), 371 U.S. 178 (1962), established the foundational standard for granting leave to amend. The Court held that leave should be freely given unless there is a clear reason to deny it, such as undue delay, bad faith, dilatory motive, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party, or futility of amendment. This standard has been repeatedly cited and applied by lower courts.

Supplemental Pleadings: Rule 15(d)

In addition to amendments under Rule 15(a), Rule 15(d) allows for supplemental pleadings to set forth events that have occurred after the date of the pleading to be supplemented. Courts have discretion to permit such supplements, particularly when new facts or events are relevant to the claims at issue, as recognized in [Keith v. Volpe](#), [858 F.2d 467](#) (9th Cir. 1988).

Case Law

The liberal standard for granting leave to amend is consistently applied across federal courts:

- In [Lopez v. The Rico Court Cartel](#), 24-cv-00411-DMS-JLB (S.D. Cal. Sep 23, 2024), the court reiterated that leave to amend should be freely given when justice so requires, and that this policy is to be applied with "extreme liberality," citing both Rule 15(a) and [Foman v. Davis](#).
- [Rafael Villegas Arce v. LHM Dodge Ram Avondale](#), CV-23-02267-PHX-MTL (D. Ariz. Mar 11, 2024), and [Navajo Health Found. - Sage Mem'l Hosp., Inc. v. Razaghi Dev. Co.](#), 2:19-cv-00329-GMN-EJY (D. Nev. Mar 15, 2021), both emphasize that leave to amend is generally denied only when it is clear that the deficiencies cannot be cured by amendment.
- [One World, LLC v. Onoufriadis](#), No. 20 Civ. 5802 (CM) (S.D. N.Y. Jan 19, 2021), and [Ad Astra Recovery Servs. v. Heath](#), 18-1145-JWB-ADM (D. Kan. Dec 26, 2019), further confirm that the purpose of Rule 15(a) is to allow claims to be decided on their merits, and that leave to amend should be denied only for good reason, such as undue delay, bad faith, futility, or prejudice.
- [Mohebbi v. Khazen](#), [50 F.Supp.3d 1234](#) (N.D. Cal. 2014), and [Eminence Capital, LLC v. Aspeon, Inc.](#), [316 F.3d 1048](#) (9th Cir. 2003), reinforce that the policy favoring amendment is to be applied with "extreme liberality," and that there is a presumption in favor of granting leave to amend absent a strong showing of the Foman factors.

The courts have also recognized that amendments may be particularly appropriate where new facts have arisen after the filing of the original complaint, as in [Keith v. Volpe](#), 858 F.2d 467 (9th Cir. 1988), which addressed the use of supplemental pleadings under Rule 15(d).

Analysis

Liberal Standard for Leave to Amend

The overwhelming weight of authority supports the proposition that leave to amend should be freely granted when justice so requires, especially where new facts may cure pleading deficiencies. The Supreme Court's decision in [Foman v. Davis](#) is the touchstone for this principle, and its reasoning has been adopted and applied by every circuit and district court to consider the issue. The courts have made clear that the default position is to allow amendment, and that the burden is on the party opposing amendment to demonstrate a valid reason for denial, such as undue delay, bad faith, repeated failure to cure deficiencies, undue prejudice, or futility ([Foman v. Davis](#), 371 U.S. 178, 182 (1962); [Brown v. Kerkhoff](#), 504 F.Supp.2d 464 (S.D. Iowa 2007)).

This liberal approach is designed to ensure that cases are decided on their substantive merits rather than on technical or procedural grounds ([SCO Grp., Inc. v. Int'l Bus. Machs. Corp.](#), 879 F.3d 1062 (10th Cir. 2018); [Mohebbi v. Khazen](#), 50 F.Supp.3d 1234 (N.D. Cal. 2014)). The courts have repeatedly emphasized that amendments should be permitted where they may cure deficiencies in the complaint, and that even if the court finds the current allegations insufficient, it should grant leave to amend unless it is clear that no set of additional facts could cure the deficiency ([DeSoto v. Yellow Freight Systems, Inc.](#), 957 F.2d 655 (9th Cir. 1992); [Schreiber Distributing Co. v. Serv-Well Furniture Co., Inc.](#), 806 F.2d 1393 (9th Cir. 1986)).

Application to New Facts and Predicate Acts

Where a plaintiff seeks to add new facts, including additional threats or predicate acts occurring after the filing of the operative complaint, the courts have recognized that such amendments may be necessary to establish elements of the claim that were previously deficient. For example, in RICO cases, the requirement of "open-ended continuity" may depend on facts that arise after the initial complaint. Courts have permitted amendments to add such facts, provided the amendment is not sought in bad faith, does not unduly prejudice the opposing party, and is not futile ([Boulton v. Am. Transfer Servs., Inc.](#), CASE NO. 14cv00175-GPC-RBB (S.D. Cal. Aug 05, 2014)).

Rule 15(d) specifically allows for supplemental pleadings to address events that have occurred after the filing of the original complaint. The Ninth Circuit in [Keith v. Volpe](#) held that allowing a supplemental complaint to include such events is within the court's discretion and is consistent with the purpose of Rule 15 to ensure that all relevant facts are before the court ([Keith v. Volpe](#), 858 F.2d 467 (9th Cir. 1988)).

Factors Limiting Leave to Amend

While the standard is liberal, courts may deny leave to amend where there is undue delay, bad faith, repeated failure to cure deficiencies, undue prejudice to the opposing party, or futility of amendment ([Foman v. Davis](#), 371 U.S. 178, 182 (1962); [Moore v. Kayport Package Exp., Inc.](#), 885 F.2d 531 (9th Cir. 1989)). The burden is on the party opposing amendment to demonstrate one of these factors ([Brown v. Kerkhoff](#), 504 F.Supp.2d 464 (S.D. Iowa 2007)). For example, if the proposed amendment would be futile because it could not survive a motion to dismiss, the court may deny leave ([Sentementes v. Gen. Elec. Co.](#), CIVIL ACTION NO. 3:14-CV-00131-VLB (D. Conn. Jun 25, 2014)).

However, courts have cautioned that denial of leave to amend is an abuse of discretion absent a strong showing of one of these factors ([Firestone v. Firestone](#), 76 F.3d 1205 (D.C. Cir. 1996); [Eminence Capital, LLC v. Aspeon, Inc.](#), 316 F.3d 1048 (9th Cir. 2003)). The presumption is in favor of granting leave, and the policy is to be applied with “extreme liberality” ([Lopez v. The Rico Court Cartel](#), 24-cv-00411-DMS-JLB (S.D. Cal. Sep 23, 2024); [Rafael Villegas Arce v. LHM Dodge Ram Avondale](#), CV-23-02267-PHX-MTL (D. Ariz. Mar 11, 2024)).

Procedural Considerations

A party may amend its pleading once as a matter of course before a responsive pleading is served ([Connectu LLC v. Zuckerberg](#), 522 F.3d 82 (1st Cir. 2008); [Allwaste, Inc. v. Hecht](#), 65 F.3d 1523 (9th Cir. 1995)). After that, amendment requires leave of court or the opposing party’s consent. A motion to dismiss is not considered a responsive pleading for these purposes ([Schreiber Distributing Co. v. Serv-Well Furniture Co., Inc.](#), 806 F.2d 1393 (9th Cir. 1986)).

If a complaint is dismissed for failure to state a claim, leave to amend should be granted unless it is clear that the complaint’s deficiencies cannot be cured by amendment ([DeSoto v. Yellow Freight Systems, Inc.](#), 957 F.2d 655 (9th Cir. 1992); [Lopez v. Smith](#), 203 F.3d 1122, 2000 WL 144385 (9th Cir. 2000)). Notably, [Lopez v. Smith](#) has been overruled by statute in part by [Melnichuk v. Kijakazi](#), but the general principle regarding the liberal standard for amendment remains widely accepted and is supported by other authorities.

Negative and Subsequent Treatment

Some cases cited have been subject to subsequent negative treatment:

- [Lopez v. Smith](#), 203 F.3d 1122 (9th Cir. 2000), was overruled by statute in part by [Melnichuk v. Kijakazi](#). However, the core principle regarding the liberal standard for granting leave to amend under Rule 15(a) remains valid and is supported by other authorities.
- [Wilkerson v. Shinseki](#), 606 F.3d 1256 (10th Cir. 2010), was declined to extend by [Freeman v. City of Cheyenne](#), 23-8022 (10th Cir. Feb 07, 2024). This does not undermine the general principle that leave to

amend should be freely given, as this standard is reaffirmed in more recent and controlling authorities.

- [Yellow Bus Lines, Inc. v. Drivers, Chauffeurs & Helpers Local Union 639, 883 F.2d 132](#) (D.C. Cir. 1989), was stated as vacated by *Brenner v. Local 514, United Broth. of Carpenters and Joiners of America*, 927 F.2d 1283 (3rd Cir. 1991). While this affects the precedential value of *Yellow Bus Lines*, the principle it articulated is consistent with the Supreme Court's holding in [Foman v. Davis](#) and is supported by numerous other authorities.

Accordingly, even where some cases have been limited or vacated, the overwhelming weight of authority—including Supreme Court precedent—supports the liberal standard for granting leave to amend.

Exceptions and Caveats

While the presumption is in favor of granting leave to amend, courts may deny such motions where there is undue delay, bad faith, repeated failure to cure deficiencies, undue prejudice to the opposing party, or futility of amendment. The party opposing amendment bears the burden of demonstrating one of these factors ([Brown v. Kerkhoff, 504 F.Supp.2d 464 \(S.D. Iowa 2007\)](#)). Additionally, if the proposed amendment would be futile because it could not survive a motion to dismiss, the court may properly deny leave ([Sentementes v. Gen. Elec. Co., CIVIL ACTION NO. 3:14-CV-00131-VLB \(D. Conn. Jun 25, 2014\)](#)).

If the plaintiff has previously been granted leave to amend and has failed to cure deficiencies, or if the amendment would cause undue prejudice to the defendant, the court may also deny leave ([Moore v. Kayport Package Exp., Inc., 885 F.2d 531 \(9th Cir. 1989\)](#); [One World, LLC v. Onoufriadis, No. 20 Civ. 5802 \(CM\) \(S.D. N.Y. Jan 19, 2021\)](#)).

Conclusion

In summary, the federal courts apply a liberal standard to motions for leave to amend under Rule 15(a), as established by the Supreme Court in [Foman v. Davis](#) and consistently reaffirmed by circuit and district courts. Unless there is a clear and compelling reason to deny leave—such as undue delay, bad faith, repeated failure to cure deficiencies, undue prejudice, or futility—the court should grant leave to amend, particularly where new facts may cure pleading deficiencies. This approach ensures that claims are decided on their merits and that plaintiffs have a fair opportunity to present all relevant facts, including those arising after the filing of the original complaint. The court should therefore grant leave to amend if the current allegations are insufficient and the plaintiff seeks to add new facts supporting elements such as open-ended continuity.

Legal Authorities

[Foman v. Davis, 371 U.S. 178, 83 S.Ct. 227, 9 L.Ed.2d 222 \(1962\)](#)

U.S. Supreme Court

Extract

Rule 15(a) declares that leave to amend 'shall be freely given when justice so requires'; this mandate is to be heeded. ... In the absence of 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 amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be 'freely given.'

Summary

The passage from *Foman v. Davis* emphasizes the principle that leave to amend should be freely given when justice requires it, unless there are specific reasons to deny it, such as undue delay or prejudice. This aligns with the proposition that if the current allegations are insufficient, the court should allow the plaintiff to amend the complaint to include new facts that may cure deficiencies. The passage supports the idea that amendments should be permitted to ensure claims are tested on their merits.

[Hutchins v. DynCorp, Int'l, Inc., Civil Action No. 15-355 \(RMC\) \(D. D.C. Dec 09, 2019\)](#)

U.S. District Court — District of Columbia

Extract

All plaintiffs seeking to amend a complaint more than '21 days after service of a responsive pleading' may only do so 'with the opposing party's consent or the court's leave.' Fed. R. Civ. P. 15(a). Rule 15 instructs courts to 'freely give leave when justice so requires.' *Id.* Nevertheless, 'the grant or denial of leave to amend is committed to a district court's discretion.' *Firestone v. Firestone*, 76 F.3d 1205, 1208 (D.C. Cir. 1996) (citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)). The Supreme Court has stressed that leave to amend should be freely given '[i]n the absence of 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 amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.' *Foman*, 371 U.S. at 182.

Summary

Rule 15 of the Federal Rules of Civil Procedure emphasizes that leave to amend should be freely given when justice requires it. The Supreme Court in *Foman v. Davis* supports this principle, stating that amendments should be allowed unless there are specific reasons not to, such as undue delay or futility. This aligns with the proposition that if current allegations are

insufficient, leave to amend should be granted to allow the plaintiff to add new facts that may cure deficiencies.

[Ad Astra Recovery Servs. v. Heath, Case No. 18-1145-JWB-ADM \(D. Kan. Dec 26, 2019\)](#)

U.S. District Court — District of Kansas

Extract

Once a party has filed a responsive pleading, the opposing party 'may amend its pleading only with the opposing party's written consent or the court's leave,' which should be freely given when justice requires. FED. R. CIV. P. 15(a)(2). The rule's purpose 'is to provide litigants the maximum opportunity for each claim to be decided on its merits rather than on procedural niceties.' *SCO Grp., Inc. v. Int'l Bus. Machines Corp.*, 879 F.3d 1062, 1085 (10th Cir. 2018) (internal quotations omitted). The court may refuse leave to amend 'only [upon] a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment.' *Wilkerson v. Shinseki*, 606 F.3d 1256, 1267 (10th Cir. 2010); see also *Foman v. Davis*, 371 U.S. 178, 182 (1962) (same).

Summary

Standard for granting leave to amend under Federal Rule of Civil Procedure 15(a)(2), emphasizing that leave should be freely given when justice requires. It cites the purpose of the rule to allow claims to be decided on their merits and references the *Foman v. Davis* case, which is directly relevant to the proposition. The passage also outlines the limited circumstances under which a court may deny leave to amend, aligning with the proposition's argument that leave should be granted to cure pleading deficiencies.

[One World, LLC v. Onoufriadis, No. 20 Civ. 5802 \(CM\) \(S.D. N.Y. Jan 19, 2021\)](#)

U.S. District Court — Southern District of New York

Extract

Leave to amend is liberally granted 'when justice so requires.' Fed. R. Civ. P. 15(a)(2). The decision to grant or deny leave to amend under Rule 15(a)(2) is within the trial court's discretion. See *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 330 (1971). The court may deny leave to amend for 'good reason,' which involves an analysis of the four factors articulated in *Foman v. Davis*, 371 U.S. 178, 182 (1962): undue delay, bad faith, futility of amendment, or undue prejudice to the opposing party.

Summary

Standard for granting leave to amend under Federal Rule of Civil Procedure 15(a)(2), which is relevant to the proposition. It emphasizes that leave to amend should be liberally granted when justice requires, aligning with the proposition's assertion that new facts may cure pleading deficiencies. The passage also references *Foman v. Davis*, which is directly cited in the proposition, reinforcing the legal basis for granting leave to amend.

[Nevada-Martinez v. Amhad, Civil Case No. 5:15-cv-239-JMH \(E.D. Ky. Apr 15, 2016\)](#)

U.S. District Court — Eastern District of Kentucky

Extract

Rule 15(a)(2) provides that '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)(2). The rule further provides that '[t]he court should freely give leave when justice so requires.' *Id.* Leave to amend should freely be given as long as the amended pleading does not involve (1) undue delay; (2) bad faith; (3) repeated failure to cure deficiencies in previous amendments; (4) undue prejudice to the opposing party; or (5) futility of amendment. *Meave v. Rincon Mexicano, Inc.*, No. 5:13-CV-334, 2014 WL 3388835, at *1 (E.D. Ky. July 9, 2014)(citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)); see also *Foman v. Davis*, 371 U.S. 178, 182 (1962) ('Rule 15(a)(2) favors granting leave to amend to allow a plaintiff 'an opportunity to test his claim on the merits.').

Summary

The passage directly references Rule 15(a)(2) of the Federal Rules of Civil Procedure, which states that leave to amend should be freely given when justice requires. It also cites *Foman v. Davis*, a Supreme Court case that supports the liberal granting of amendments to allow plaintiffs to test their claims on the merits. This aligns with the proposition that leave to amend should be granted to add new facts and cure deficiencies, especially when it supports claims like open-ended continuity.

[Ho Myung Moolsan Co. v. Manitou Mineral Water, 665 F.Supp.2d 239 \(S.D. N.Y. 2009\)](#)

U.S. District Court — Southern District of New York

Extract

The standards applicable to a motion to amend a pleading are well settled and require only brief review. Leave to amend a pleading should be freely

granted when justice so requires. Fed.R.Civ.P. 15(a); Foman v. Davis, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962)... The 'colorable grounds requirement mandates that a district court may not deny a motion for leave to amend a pleading when said pleading is sufficient to withstand a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6).'... Judged by these factors, amendment of the complaint to add a claim for breach of fiduciary duty and conspiracy to do so will not prejudice defendants.

Summary

The passage reiterates the principle that leave to amend should be freely given when justice requires, as established in Fed.R.Civ.P. 15(a) and Foman v. Davis. It also highlights that a motion to amend should not be denied if the proposed amendment can withstand a motion to dismiss, indicating that new facts that may cure deficiencies should be allowed. This supports the proposition that if current allegations are insufficient, leave to amend should be granted to allow the plaintiff to add new facts.

[Navajo Health Found. - Sage Mem'l Hosp., Inc. v. Razaghi Dev. Co., Case No.: 2:19-cv-00329-GMN-EJY \(D. Nev. Mar 15, 2021\)](#)

U.S. District Court — District of Nevada

Extract

If the court grants a motion to dismiss, it must then decide whether to grant leave to amend. The court should 'freely give' leave to amend when there is no 'undue delay, bad faith[,] dilatory motive on the part of the movant. .. undue prejudice to the opposing party by virtue of. .. the amendment, [or] futility of the amendment. .. .' Fed. R. Civ. P. 15(a); Foman v. Davis, 371 U.S. 178, 182 (1962). Generally, leave to amend is only denied when it is clear that the deficiencies of the complaint cannot be cured by amendment. See DeSoto v. Yellow Freight Sys., Inc., 957 F.2d 655, 658 (9th Cir. 1992).

Summary

The passage directly references the standard for granting leave to amend under Federal Rule of Civil Procedure 15(a) and the precedent set by Foman v. Davis, which supports the proposition that leave to amend should be freely given when justice requires it, especially if new facts could cure deficiencies. The passage also notes that leave to amend is generally denied only when it is clear that the complaint's deficiencies cannot be cured, aligning with the proposition's emphasis on allowing amendments to address pleading deficiencies.

[Mohebbi v. Khazen, 50 F.Supp.3d 1234 \(N.D. Cal. 2014\)](#)

U.S. District Court — Northern District of California

Extract

Pursuant to Federal Rule of Civil Procedure 15(a), a court should grant leave to amend a complaint 'when justice so requires,' because 'the purpose of Rule 15... [is] to facilitate decision on the merits, rather than on the pleadings or technicalities.' *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) (emphasis in original). The Court may deny leave to amend, however, for a number of reasons, including 'undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [and] futility of amendment.' *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (2003) (citing *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962)).

Summary

Standard for granting leave to amend a complaint under Federal Rule of Civil Procedure 15(a), emphasizing that leave should be granted when justice requires it to facilitate decisions on the merits. It also references *Foman v. Davis*, which is a key case supporting the liberal amendment policy. The passage outlines circumstances under which leave may be denied, aligning with the proposition that new facts may cure pleading deficiencies.

[Brown v. Kerkhoff, 504 F.Supp.2d 464 \(S.D. Iowa 2007\)](#)

U.S. District Court — Southern District of Iowa

Extract

Federal Rule of Civil Procedure 15(a) provides that after a party has amended a pleading once as a matter of course, it may only amend again by obtaining 'leave of court or ... written consent of the adverse party.' Fed.R.Civ.P. 15(a). The rule also directs that 'leave shall be freely given when justice so requires.' *Id.* Plaintiffs have already used their free pass at amendment, and Defendants have not consented to the proposed amendments, so Plaintiffs have now sought permission from the Court to file a Third Amended Complaint. ... *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962); see *United States v. Hougham*, 364 U.S. 310, 316-17, 81 S.Ct. 13, 5 L.Ed.2d 8 (1960) (suggesting amendments should always be permitted 'except where prejudice to the opposing party would result'); cf. *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 330-31, 91 S.Ct. 795, 28 L.Ed.2d 77 (1971) (when considering whether to grant leave to amend an answer, the court must take into account prejudice suffered by the plaintiff). Because of the liberal rules governing amendments, the party resisting the amendment bears the burden of showing it is improper.

Summary

Principles under Federal Rule of Civil Procedure 15(a), which states that leave to amend should be freely given when justice requires it. This aligns with the proposition that amendments should be allowed to include new facts that may cure pleading deficiencies. The reference to *Foman v. Davis* supports the idea that amendments should be permitted unless there is prejudice to the opposing party, reinforcing the liberal approach to granting leave to amend.

[Allwaste, Inc. v. Hecht, 65 F.3d 1523 \(9th Cir. 1995\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

A party is entitled to amend pleadings once 'as a matter of course' at any time before a responsive pleading is served. Fed.R.Civ.P. 15(a); *Wages v. IRS*, 915 F.2d 1230, 1235 (9th Cir.1990), cert. denied, 498 U.S. 1096, 111 S.Ct. 986, 112 L.Ed.2d 1071 (1991). We review the denial of leave to amend after a responsive pleading has been filed for an abuse of discretion; however, we strictly review such denial in light of the strong policy permitting amendment. *National Abortions Fed'n v. Operation Rescue*, 8 F.3d 680, 681 (9th Cir.1993). The district court denied Allwaste leave to amend its complaint on the ground that the additional facts alleged at oral argument were not sufficient to state a valid RICO claim. This was an abuse of discretion. Federal Rule of Civil Procedure 15(a) entitles plaintiffs the right to amend once as a matter of course before responsive pleadings are filed. A motion to dismiss for failure to state a claim is not a responsive pleading. *Schreiber Distrib. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1401 (9th Cir. 1986). Because there were no responsive pleadings filed, Allwaste should have been granted leave to amend.

Summary

Right of a party to amend pleadings under Federal Rule of Civil Procedure 15(a), emphasizing that leave to amend should be freely given, especially before a responsive pleading is filed. The court's decision to deny leave to amend was considered an abuse of discretion, highlighting the strong policy favoring amendments to cure deficiencies. This supports the proposition that leave to amend should be granted to allow the plaintiff to add new facts and address pleading deficiencies.

[Firestone v. Firestone, 76 F.3d 1205, 316 U.S. App. D.C. 152 \(D.C. Cir. 1996\)](#)

U.S. Court of Appeals — District of Columbia Circuit

Extract

Leave to amend a complaint under Rule 15(a) 'shall be freely given when justice so requires.' FED.R.CIV.P. 15(a); see *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222 (1962). Although the grant or denial of leave to amend is committed to a district court's discretion, it is an abuse of discretion to deny leave to amend unless there is sufficient reason, such as 'undue delay, bad faith or dilatory motive ... repeated failure to cure deficiencies by [previous] amendments ... [or] futility of amendment.' *Foman*, 371 U.S. at 182, 83 S.Ct. at 230.

Summary

The passage emphasizes the principle that leave to amend should be freely given when justice requires it, as per Rule 15(a) and the precedent set in *Foman v. Davis*. It also highlights that denying such leave without a justifiable reason constitutes an abuse of discretion. This aligns with the proposition that if the current allegations are insufficient, the court should allow the plaintiff to amend the complaint to include new facts that may address any deficiencies.

[Wilkerson v. Shinseki, 606 F.3d 1256 \(10th Cir. 2010\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

A district court should refuse leave to amend 'only [upon] a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment.'

Summary

Conditions under which a district court may deny a motion for leave to amend a complaint. It emphasizes that leave to amend should generally be granted unless there is a specific reason such as undue delay, prejudice, bad faith, or futility. This aligns with the proposition that leave to amend should be freely given when justice requires, especially to cure pleading deficiencies.

[Connectu LLC v. Zuckerberg, 522 F.3d 82 \(1st Cir. 2008\)](#)

U.S. Court of Appeals — First Circuit

Extract

For example, it is clear beyond hope of contradiction that the Civil Rules permit a party to amend its complaint 'once as a matter of course at anytime before a responsive pleading is served.' Fed.R.Civ.P. 15(a). An amended complaint, once filed, normally supersedes the antecedent complaint. ... Amendments as of right under Rule 15(a) operate 'as a matter of course,' and do not require a judicial imprimatur.

Summary

Permissibility of amending a complaint under Federal Rule of Civil Procedure 15(a), emphasizing that amendments can be made as a matter of course before a responsive pleading is served. This supports the proposition that leave to amend should be freely given, especially when new facts may cure deficiencies. The passage also notes that an amended complaint supersedes the original, aligning with the idea that new facts can be added to support the case.

[Moore v. Kayport Package Exp., Inc., 885 F.2d 531 \(9th Cir. 1989\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

Denial of leave to amend after a responsive pleading has been filed is reviewed for abuse of discretion, ... but such denial is 'strictly' reviewed in light of the strong policy permitting amendment." *Thomas- Lazear v. Federal Bureau of Investigation*, 851 F.2d 1202, 1206 (9th Cir.1988) (citations omitted). Federal Rule of Civil Procedure 15(a) provides that a trial court should grant leave to amend 'freely when justice so requires.' In deciding whether justice requires granting leave to amend, factors to be considered include the presence or absence of undue delay, bad faith, dilatory motive, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party and futility of the proposed amendment. *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222 (1962); *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir.1987).

Summary

Standard for granting leave to amend under Federal Rule of Civil Procedure 15(a), emphasizing that leave should be granted freely when justice requires it. It also outlines factors to consider, such as undue delay, bad faith, and futility, which align with the proposition that new facts may cure pleading deficiencies. The reference to *Foman v. Davis* supports the idea that amendments should be allowed to address deficiencies.

[SCO Grp., Inc. v. Int'l Bus. Machs. Corp., 879 F.3d 1062 \(10th Cir. 2018\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

Rule 15(a)(2) further indicates that '[t]he court should freely give leave [to amend pleadings] when justice so requires.' Fed. R. Civ. P. 15(a)(2). Consistent with this rule, we have held that '[t]he purpose of [Rule 15(a)(2)] is to provide litigants the maximum opportunity for each claim to be decided on its merits rather than on procedural niceties.'

Summary

The passage directly references Rule 15(a)(2) of the Federal Rules of Civil Procedure, which states that leave to amend should be freely given when justice requires. This aligns with the proposition that amendments should be allowed to cure deficiencies and ensure claims are decided on their merits. The passage also emphasizes the purpose of Rule 15(a)(2) to maximize the opportunity for claims to be decided on their merits, supporting the idea that amendments should be permitted to add new facts that may address pleading deficiencies.

[Keith v. Volpe, 858 F.2d 467 \(9th Cir. 1988\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

We hold that allowing the supplemental complaint was well within the district court's discretion under Fed.R.Civ.P. 15(d), which is designed to permit expansion of the scope of existing litigation to include events that occur after the filing of the original complaint. ... Rule 15, Fed.R.Civ.P., authorizes supplemental complaints for such a purpose. It provides that '[u]pon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented.' Fed.R.Civ.P. 15(d).

Summary

Discretion afforded to district courts under Rule 15(d) to allow supplemental complaints that include events occurring after the original complaint was filed. This supports the proposition that leave to amend should be freely given to include new facts that may cure pleading deficiencies, as it emphasizes the court's discretion to expand the scope of litigation to include new developments.

[Inc v. Northwestern Bell Telephone Company, 492 U.S. 229, 109 S.Ct. 2893, 106 L.Ed.2d 195 \(1989\)](#)

U.S. Supreme Court

Extract

Continuity is both a closed- and open-ended concept, referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition. ... A party alleging a RICO violation may demonstrate continuity over a closed period by proving a series of related predicates extending over a substantial period of time. Predicate acts extending over a few weeks or months and threatening no future criminal conduct do not satisfy this requirement: Congress was concerned in RICO with long-term criminal conduct. Often a RICO action will be brought before continuity can be established in this way. In such cases, liability depends on whether the threat of continuity is demonstrated.

Summary

Concept of continuity in the context of RICO violations, explaining that continuity can be demonstrated through a closed period of repeated conduct or through past conduct that projects into the future with a threat of repetition. This aligns with the proposition that if current allegations are insufficient, a plaintiff should be allowed to amend the complaint to include additional facts that may demonstrate open-ended continuity. The passage supports the idea that demonstrating continuity is crucial in RICO cases and that new facts can be relevant to establishing this continuity.

[Zenith Radio Corp v. Hazeltine Research, Inc, 401 U.S. 321, 91 S.Ct. 795, 28 L.Ed.2d 77 \(1971\)](#)

U.S. Supreme Court

Extract

It is settled that the grant of leave to amend the pleadings pursuant to Rule 15(a) is within the discretion of the trial court. *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222 (1962) (dictum).

Summary

The passage confirms that the discretion to grant leave to amend pleadings is vested in the trial court, as established in *Foman v. Davis*. This supports the proposition that leave to amend should be freely given when justice requires, especially to cure deficiencies, as it aligns with the principle that courts have the discretion to allow amendments to ensure justice.

[Leary v. Daeschner, 349 F.3d 888 \(6th Cir. 2003\)](#)

U.S. Court of Appeals — Sixth Circuit

Extract

Federal Rule of Civil Procedure 15 provides that leave to amend 'shall be freely given when justice so requires.' Fed. R.Civ.P. 15(a). The Supreme Court, commenting on the mandate in Rule 15(a), stated: In the absence of 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 amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of the amendment, etc. — the leave sought should, as the rules require, be 'freely given.' *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962).

Summary

Rule 15(a) of the Federal Rules of Civil Procedure emphasizes that leave to amend should be freely given when justice requires it. The Supreme Court in *Foman v. Davis* supports this by stating that unless there are specific reasons such as undue delay or prejudice, amendments should be allowed. This aligns with the proposition that if current allegations are insufficient, leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

[Lopez v. The Rico Court Cartel, 24-cv-00411-DMS-JLB \(S.D. Cal. Sep 23, 2024\)](#)

U.S. District Court — Southern District of California

Extract

When a court grants a motion to dismiss a complaint, it must then decide whether to grant leave to amend. *Foman v. Davis*, 371 U.S. 178, 182 (1962) (noting that leave to amend is within discretion of district court). Leave to amend 'shall be freely given when justice so requires,' Fed.R.Civ.P. 15(a), and 'this policy is to be applied with extreme liberality.' *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990).

Summary

Standard for granting leave to amend a complaint after a motion to dismiss has been granted. It cites *Foman v. Davis* and Fed.R.Civ.P. 15(a), emphasizing that leave to amend should be freely given when justice requires, and this policy is applied with extreme liberality. This directly supports the proposition that if the court finds the current allegations insufficient, it should grant leave to amend to allow the plaintiff to plead additional facts.

[Rafael Villegas Arce v. LHM Dodge Ram Avondale, CV-23-02267-PHX-MTL \(D. Ariz. Mar 11, 2024\)](#)

U.S. District Court — District of Arizona

Extract

District courts 'shall grant leave to amend freely 'when justice so requires.'" Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc) (quoting Fed.R.Civ.P. 15 (a)). Courts in the Ninth Circuit are to apply this policy 'with extreme liberality.' Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir. 1990).

Summary

The passage emphasizes the liberal policy of granting leave to amend under Rule 15(a) of the Federal Rules of Civil Procedure, particularly within the Ninth Circuit. This aligns with the proposition that leave to amend should be freely given when justice requires, especially to cure pleading deficiencies. The passage supports the idea that courts should allow amendments to plead additional facts, as it reflects the general principle of liberality in granting amendments.

[Sentementes v. Gen. Elec. Co., CIVIL ACTION NO. 3:14-CV-00131-VLB \(D. Conn. Jun 25, 2014\)](#)

U.S. District Court — District of Connecticut

Extract

Although the Federal Rules provide that the court should 'freely give leave [to amend] when justice so requires', Fed. R. Civ. P. 15(a)(2), the court may deny leave to amend when it would be futile, or when the substance of the claim to be amended is frivolous on its face.

Summary

The passage explicitly references Federal Rule of Civil Procedure 15(a)(2), which states that leave to amend should be freely given when justice requires. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts that may cure pleading deficiencies. The passage also notes that leave to amend can be denied if it would be futile or if the claim is frivolous, which is consistent with the legal standards for granting such motions.

[Lenk v. Monolithic Power Sys. Inc., Case No. 19-cv-03791-BLF \(N.D. Cal. Feb 10, 2020\)](#)

U.S. District Court — Northern District of California

Extract

Leave ordinarily must be granted unless one or more of the following factors is present: (1) undue delay, (2) bad faith or dilatory motive, (3) repeated failure to cure deficiencies by amendment, (4) undue prejudice to the opposing party, and (5) futility of amendment. *Foman v. Davis*, 371 U.S. 178,182 (1962); see also *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (discussing *Foman* factors).

Summary

The passage references the *Foman v. Davis* case, which is a seminal case regarding the standard for granting leave to amend under Rule 15(a). It outlines the factors that may justify denying leave to amend, emphasizing that leave should be freely given unless specific negative factors are present. This aligns with the proposition that leave to amend should be granted to allow the addition of new facts unless there are compelling reasons not to.

[Rumanek v. Fallon, CIVIL ACTION NO. 1:17-CV-123 \(D. Del. Sep 17, 2018\)](#)

U.S. District Court — District of Delaware

Extract

Federal Rule of Civil Procedure 15(a)(2) directs the court to 'freely give leave [to amend] when justice so requires.' FED. R. CIV. P. 15(a)(2). The decision whether to grant leave to amend is committed to the sound discretion of the district court. See *Lorenz v. CSX Corp.*, 1 F.3d 1406, 1413 (3d Cir. 1993) (citing *Bechtel v. Robinson*, 886 F.2d 644, 647 (3d Cir. 1989)). Under this standard, courts generally will grant leave to amend unless the opposing party can establish undue delay, bad faith on the part of the movant, futility of amendment, or prejudice to the nonmoving party.

Summary

Standard under Federal Rule of Civil Procedure 15(a)(2), which directs courts to "freely give leave [to amend] when justice so requires." This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts, especially if they may cure pleading deficiencies. The passage also notes that courts generally grant leave to amend unless there are specific reasons not to, such as undue delay or futility, which supports the idea that leave should be granted if the current allegations are insufficient.

[Boulton v. Am. Transfer Servs., Inc., CASE NO. 14cv00175-GPC-RBB \(S.D. Cal. Aug 05, 2014\)](#)

U.S. District Court — Southern District of California

Extract

Based on the reasoning below, the Court GRANTS in part and DENIES in part Plaintiff's motion for leave to file a second amended complaint... Defendants do not assert that granting Plaintiff leave to file a second amendment complaint to add a civil RICO claim would be futile, sought in bad faith, would create undue delay or otherwise prejudice Defendants. Accordingly, the Court GRANTS Plaintiff's motion for leave to file a second amended complaint to add civil RICO as a cause of action.

Summary

The court granted the plaintiff's motion for leave to amend the complaint to add a civil RICO claim. The court's decision was based on the absence of any assertion by the defendants that the amendment would be futile, sought in bad faith, create undue delay, or prejudice the defendants. This aligns with the principle that leave to amend should be freely given when justice so requires, as stated in Fed. R. Civ. P. 15(a) and supported by the precedent in *Foman v. Davis*.

[Zigman v. Giacobbe, 944 F.Supp. 147 \(E.D. N.Y. 1996\)](#)

U.S. District Court — Eastern District of New York

Extract

Finally, the plaintiff requests that if the defendants' motion is granted, that he be given leave to replead his claims. Fed. R.Civ.P. 15(a) provides that 'leave [to amend a pleading] shall be freely given when justice so requires.' ... Applying these standards, the Court grants the plaintiff's motion for leave to replead. ... Curing any of these defects would revive his claims. Accordingly, construing Rule 15 liberally, and in the interests of justice, the plaintiff's motion for leave to replead is granted.

Summary

Court's application of Fed. R. Civ. P. 15(a), which states that leave to amend should be freely given when justice requires. The court granted the plaintiff's motion for leave to replead, noting that curing the defects in the original pleading would revive the claims. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

[Yellow Bus Lines, Inc. v. Drivers, Chauffeurs & Helpers Local Union 639, 883 F.2d 132, 280 U.S.App. D.C. 60 \(D.C. Cir. 1989\)](#)

U.S. Court of Appeals — District of Columbia Circuit

Extract

Finally, we hold that the district court abused its discretion to the extent that it relied on lack of timeliness to justify its refusal to grant leave to amend. Fed.R.Civ.P. 15(a) declares that leave to amend 'shall be freely given when justice so requires.' As the Supreme Court forcefully stated in *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222 (1962), 'this mandate is to be heeded.' These pleading rules were designed to facilitate a proper decision on the merits, and the opportunity to test the merits should ordinarily be accommodated if injustice will not otherwise result.

Summary

Principle that leave to amend should be freely given when justice requires, as stated in Fed. R. Civ. P. 15(a) and reinforced by the Supreme Court in *Foman v. Davis*. The court in this case found that the district court abused its discretion by denying leave to amend based on timeliness, emphasizing that the rules are designed to allow a proper decision on the merits. This supports the proposition that if current allegations are insufficient, leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

[Bernstein v. Misk, 948 F.Supp. 228 \(E.D. N.Y. 1997\)](#)

U.S. District Court — Eastern District of New York

Extract

"Rule 15(a) provides that 'leave [to amend a pleading] shall be freely given when justice so requires.' The Supreme Court has held that only 'undue delay, bad faith, or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party ... [or] futility of the amendment' will serve to prevent an amendment prior to trial." *Foman v. Davis*, 371 U.S. 178, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962).

Summary

The passage from "*Bernstein v. Misk*" references Rule 15(a) and the Supreme Court's decision in *Foman v. Davis*, which are both authoritative sources on the standard for granting leave to amend pleadings. The passage emphasizes that leave to amend should be freely given unless specific exceptions apply, such as undue delay or futility. This aligns with the

proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies, provided these exceptions do not apply.

[DeSoto v. Yellow Freight Systems, Inc., 957 F.2d 655 \(9th Cir. 1992\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

If a complaint is dismissed for failure to state a claim, leave to amend should be granted 'unless the court determines that the allegation of other facts consistent with the challenged pleading could not possibly cure the deficiency.'

Summary

The passage from "DeSoto v. Yellow Freight Systems, Inc." supports the proposition by emphasizing the principle that leave to amend should be granted unless it is clear that no set of facts could cure the deficiencies in the complaint. This aligns with the general rule under Fed. R. Civ. P. 15(a) that amendments should be freely given when justice requires, especially when new facts could potentially address the issues in the original pleading.

[Thomas-Lazear v. F.B.I., 851 F.2d 1202 \(9th Cir. 1988\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

Denial of leave to amend after a responsive pleading has been filed is reviewed for abuse of discretion, Klamath-Lake Pharmaceutical Ass'n. v. Klamath Medical Service Bureau, 701 F.2d 1276, 1292 (9th Cir.), cert. denied, 464 U.S. 822, 104 S.Ct. 88, 78 L.Ed.2d 96 (1983), but such denial is 'strictly' reviewed in light of the strong policy permitting amendment, Gabrielson v. Montgomery Ward & Co., 785 F.2d 762, 765 (9th Cir.1986).

Summary

The passage highlights that the denial of leave to amend is subject to strict review due to the strong policy favoring amendments. This aligns with the proposition that leave to amend should be freely given when justice requires, especially to cure deficiencies. The reference to the review for abuse of discretion underscores the court's obligation to consider amendments favorably unless there is a compelling reason not to.

[Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048 \(9th Cir. 2003\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

Generally, Rule 15 advises the court that 'leave shall be freely given when justice so requires.' This policy is 'to be applied with extreme liberality.' ... Absent prejudice, or a strong showing of any of the remaining Foman factors, there exists a presumption under Rule 15(a) in favor of granting leave to amend. ... We do not quarrel with the district judge's assessment that the First Amended Consolidated Complaint was deficient. However, we believe that the district court did not appropriately exercise its discretion by denying plaintiffs leave to amend where, as here, plaintiffs' allegations were not frivolous, plaintiffs were endeavoring in good faith to meet the heightened pleading requirements and to comply with court guidance, and, most importantly, it appears that plaintiffs had a reasonable chance of successfully stating a claim if given another opportunity.

Summary

The passage emphasizes the liberal policy of granting leave to amend under Rule 15(a) unless there is a strong reason not to, such as prejudice or other Foman factors. It highlights that the court should allow amendments when plaintiffs are acting in good faith and have a reasonable chance of success. This supports the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

[National Abortions Federation v. Operation Rescue, 8 F.3d 680 \(9th Cir. 1993\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

The Federation also appeals the denial of its alternative motion for leave to amend its complaint, pursuant to Fed.R.Civ.P. 15(a). Review is for an abuse of discretion. DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir. 1987).

Summary

The passage references the standard for reviewing a denial of a motion for leave to amend under Fed.R.Civ.P. 15(a), which is relevant to the proposition that leave to amend should be freely given when justice so requires. The mention of "review is for an abuse of discretion" indicates that the court's decision to deny leave to amend is subject to review, supporting the idea that such leave should be granted unless there is a clear reason not to. This aligns with the principle that amendments should be allowed to cure deficiencies, as stated in the proposition.

[DCD Programs, Ltd. v. Leighton, 833 F.2d 183 \(9th Cir. 1987\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

Federal Rule of Civil Procedure 15(a) provides that a party may amend their complaint once 'as a matter of course' before a responsive pleading is served, after that the 'party may amend the party's pleading only by leave of court or by written consent of the adverse party and leave shall be freely given when justice so requires.' Fed.R.Civ.P. 15(a). Thus 'after a brief period in which a party may amend as of right,' leave to amend lies 'within the sound discretion of the trial court.' *United States v. Webb*, 655 F.2d 977, 979 (9th Cir.1981). ... This liberality in granting leave to amend is not dependent on whether the amendment will add causes of action or parties. It is, however, subject to the qualification that amendment of the complaint does not cause the opposing party undue prejudice, *Acri v. International Ass'n of Machinists*, 781 F.2d 1393, 1398-99 (9th Cir.), cert. denied, --- U.S. ---, 107 S.Ct. 73, 93 L.Ed.2d 29 (1986); *United States v. City of Twin Falls*, 806 F.2d 862, 876 (9th Cir.1986), is not sought in bad faith, *Howey*, 481 F.2d at 1190-91, and does not constitute an exercise in futility. *Klamath*, 701 F.2d at 1293.

Summary

The Federal Rules of Civil Procedure encourage granting leave to amend pleadings when justice requires it. The passage emphasizes the liberal approach to amendments, provided they do not cause undue prejudice, are not in bad faith, and are not futile. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

[Bechtel v. Robinson, 886 F.2d 644 \(3rd Cir. 1989\)](#)

U.S. Court of Appeals — Third Circuit

Extract

We now examine whether the appellants' filing of an amended complaint should have been permitted under Fed.R.Civ.P. 15(a), which provides that 'leave [to amend] shall be freely given when justice so requires.' We have noted that the courts 'have shown a strong liberality ... in allowing amendments under Rule 15(a).' *Heyl & Patterson Int'l, Inc. v. F.D. Rich Housing*, 663 F.2d 419, 425 (3d Cir.1981) (quoting 3 J. Moore, *Moore's Federal Practice* p 15.08(2) (2d ed. 1989)), cert. denied, 455 U.S. 1018, 102 S.Ct. 1714, 72 L.Ed.2d 136 (1982).

Summary

Application of Fed.R.Civ.P. 15(a), which states that leave to amend should be freely given when justice requires. The court emphasizes a strong liberality in allowing amendments, which aligns with the proposition that amendments should be permitted to cure deficiencies and add new facts. This supports the idea that if current allegations are insufficient, the court should allow amendments to include additional facts.

[Schreiber Distributing Co. v. Serv-Well Furniture Co., Inc., 806 F.2d 1393 \(9th Cir. 1986\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

Fed.R.Civ.P. 15(a) provides, inter alia, that 'a party may amend his pleading once as a matter of course at any time before a responsive pleading is served....' We have stated that '[a] motion to dismiss is not a "responsive pleading" within the meaning of the Rule. Neither the filing nor granting of such a motion before answer terminates the right to amend; an order of dismissal denying leave to amend at that state is improper....' Mayes, 729 F. 2d at 607 (quoting Breier v. Northern California Bowling Proprietors' Association, 316 F.2d 787, 789 (9th Cir.1963)). If a complaint is dismissed for failure to state a claim, leave to amend should be granted unless the court determines that the allegation of other facts consistent with the challenged pleading could not possibly cure the deficiency.

Summary

Application of Fed.R.Civ.P. 15(a), which allows a party to amend their pleading before a responsive pleading is served. It emphasizes that a motion to dismiss is not a responsive pleading, and thus, the right to amend is not terminated by such a motion. The passage further states that leave to amend should be granted unless it is determined that no additional facts could cure the deficiencies in the complaint. This aligns with the proposition that leave to amend should be freely given to allow the plaintiff to add new facts that may address pleading deficiencies.

[Lorenz v. CSX Corp., 1 F.3d 1406 \(3rd Cir. 1993\)](#)

U.S. Court of Appeals — Third Circuit

Extract

Fed.R.Civ.P. 15(a) provides that 'a party may amend [its] pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.' The Supreme Court has identified

several factors to be considered when applying Rule 15(a): 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. In the absence of 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 amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.--the leave sought should, as the rules require, be 'freely given.'

Summary

The passage from "Lorenz v. CSX Corp." discusses the application of Fed.R.Civ.P. 15(a), which states that leave to amend should be freely given when justice requires. The passage also references the Supreme Court's guidance on factors to consider when deciding whether to grant leave to amend, such as the absence of undue delay, bad faith, or futility of amendment. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts that may cure pleading deficiencies.

[Lopez v. Smith, 203 F.3d 1122, 2000 WL 144385 \(9th Cir. 2000\)](#)

U.S. Court of Appeals — Ninth Circuit

Extract

This amendment policy is informed by Federal Rule of Civil Procedure 15(a), which provides that leave to amend should be freely granted 'when justice so requires.' Although Rule 15(a) gives the trial court discretion over this matter, we have repeatedly stressed that the court must remain guided by 'the underlying purpose of Rule 15... to facilitate decision on the merits, rather than on the pleadings or technicalities.' ... As noted above, Federal Rule of Civil Procedure 15(a) provides that a trial court shall grant leave to amend freely 'when justice so requires.' The Supreme Court has stated that 'this mandate is to be heeded.' *Foman v. Davis*, 371 U.S. 178, 182 (1962). In addition, we have repeatedly held that 'a district court should grant leave to amend even if no request to amend the pleading was made, unless it determines that the pleading could not possibly be cured by the allegation of other facts.'

Summary

The passage emphasizes the liberal policy of granting leave to amend under Rule 15(a) when justice requires it. It highlights the purpose of Rule 15 to facilitate decisions on the merits rather than on technicalities. The passage also references the Supreme Court's mandate in *Foman v. Davis* that this policy should be followed. The Ninth Circuit's precedent further supports granting leave to amend unless it is clear that the pleading cannot be cured by additional facts. This aligns with the proposition that leave to amend

should be granted to allow the plaintiff to add new facts and cure deficiencies.

[24 C.F.R. § 26.15 24 C.F.R. § 26.15 Amendments and Supplemental Pleadings](#)

Extract

By leave: Upon conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, the hearing officer may allow amendments to pleadings upon motion of any party. Supplemental pleadings. The hearing officer may, upon reasonable notice, permit service of a supplemental pleading concerning transactions, occurrences, or events that have happened or been discovered since the date of prior pleadings.

Summary

Amendments to pleadings can be allowed by a hearing officer to avoid prejudicing the public interest and the rights of the parties. It also allows for supplemental pleadings concerning new transactions or events discovered after the initial pleadings. This aligns with the general principle under Fed. R. Civ. P. 15(a) that leave to amend should be freely given when justice requires, especially to cure deficiencies or include new facts.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Holt, Michael W. - 2009-03-22

Extract

The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity is defined as 'a series of related predicates extending over a substantial period of time.' Open-ended continuity is defined as conduct that may last only a short period of time but nonetheless, poses a threat of extending into the future. The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts.

Summary

The concept of continuity in RICO cases can be satisfied by demonstrating either closed-ended or open-ended continuity. Open-ended continuity, in particular, is relevant to the proposition as it involves conduct that poses a threat of extending into the future, which aligns with the Plaintiff's request to amend the complaint to include new facts and predicate acts. The passage supports the idea that new facts may cure pleading deficiencies by

establishing a pattern of racketeering activity through open-ended continuity.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Douglass, Sean M. - 2011-03-22

Extract

The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity in the RICO context may be demonstrated 'by proving a series of related predicates extending over a substantial period of time.' Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless poses a threat of extending into the future. The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts.

Summary

Concept of continuity in the context of RICO claims, specifically addressing open-ended continuity. It explains that open-ended continuity involves conduct that may pose a threat of continuing into the future, which aligns with the proposition that new facts may support open-ended continuity. The passage also emphasizes the importance of examining the threat of continued racketeering activity on a case-by-case basis, which supports the idea of allowing amendments to plead additional facts.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Argust, Corey P. - 2010-03-22

Extract

The 'continuity' prong is satisfied by proof of either closed-ended continuity or open-ended continuity. Closed-ended continuity in the RICO context may be demonstrated 'by proving a series of related predicates extending over a substantial period of time.' Open-ended continuity in the RICO context is conduct that may last only a short period of time but nonetheless, poses a threat of extending into the future. The Court suggested a case-by-case examination of this issue, noting that the existence of a 'threat of continued racketeering activity' is a function of particular facts.

Summary

Concept of continuity in the context of RICO, specifically addressing both closed-ended and open-ended continuity. Open-ended continuity is particularly relevant to the proposition as it involves conduct that poses a threat of extending into the future, which aligns with the idea of adding new facts and predicate acts to support allegations of ongoing racketeering activity. The passage supports the notion that if current allegations are insufficient, additional facts demonstrating a threat of continued activity could justify an amendment to the complaint.

[Federal litigation procedure](#)

Legal Secretary Federal Litigation - James Publishing - Pamela Everett Nollkamper - 2023-05-01

Extract

A complaint may be amended before a responsive pleading is filed, or at any time thereafter by leave of court or by written stipulation by all parties. A party may amend its pleading once within 21 days after a responsive pleading is filed. If a responsive pleading is not due, a pleading may be amended once within 21 days after a motion to dismiss, strike, or a more definite statement is filed. (Fed.R.Civ.P. 15(a)(1)(B)).

Summary

Conditions under which a complaint may be amended, referencing Federal Rule of Civil Procedure 15(a), which supports the idea that amendments should be freely given when justice requires. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure any deficiencies in the pleading.

[Checkmate. The Joy of Using Federal Civil Procedure to Solve Your Client's Problems](#)

Litigation - American Bar Association - 2024-04-01

Extract

A client may also benefit from amendment of the complaint before, or during, briefing on a motion to dismiss. The early opportunity to amend a complaint as of right may prevent or resolve significant concerns for a client, such as allowing the client to correct any pleading oversights or add crucial claim details, without risking dismissal or incurring the expense of seeking leave to amend over opposing counsel's objection... Early amendment may solve, or prevent, myriad problems for client and counsel alike. At bottom, a by-right amendment is essentially a "do-over" to

strengthen a complaint. This may involve adding or amending allegations to enable the case to survive a defendant's motion to dismiss—including after evaluating any arguments for dismissal—or adding or amending allegations based on further information learned during post-filing investigation.

Summary

Strategic benefits of amending a complaint, particularly in the context of federal civil procedure. It highlights that early amendment can address pleading deficiencies, add crucial details, and strengthen a complaint to survive a motion to dismiss. This aligns with the proposition that leave to amend should be freely given when justice requires, especially to cure deficiencies and add new facts.

[Practical Aspects of the Law of Misuse: Misuse in the Litigation Context](#)

Intellectual Property Misuse: Licensing and Litigation. Second Edition - American Bar Association - 2020-12-06

Extract

Federal Rule of Civil Procedure 15(a) provides that leave to amend 'shall be freely given when justice so requires.' Under Rule 15, district courts should grant leave to amend absent evidence that the movant unduly delayed in seeking amendment, seeks to amend in bad faith or for dilatory purpose, or repeatedly failed to cure its deficient pleadings by previous amendments or that the amendments would unduly prejudice the opposing party or would be futile.

Summary

Federal Rule of Civil Procedure 15(a) emphasizes that leave to amend should be freely given when justice requires it. This aligns with the proposition that amendments should be allowed to cure pleading deficiencies, provided there is no undue delay, bad faith, or prejudice to the opposing party. The passage supports the idea that new facts can be added to strengthen a case if the current allegations are insufficient.

[Initiating litigation and finalizing the pleadings](#)

Litigating Sexual Harassment & Sex Discrimination Cases - James Publishing - Aaron B. Maduff - 2022-05-06

Extract

Fed. R. Civ. P. 15 provides for amending complaints. There are numerous reasons for amending a complaint. Sometimes it is to add parties, sometimes it is to add legal theories, and sometimes it is to correct errors or cure

defects... 'Leave to amend a complaint should be 'freely given when justice so requires' Fed. R. Civ. P. 15(a) *** The federal rule policy of deciding cases on the basis of the substantive rights involved rather than on technicalities requires that plaintiff be given every opportunity to cure a formal defect in his initial pleading.'

Summary

General principles under Fed. R. Civ. P. 15 regarding the amendment of complaints. It emphasizes that amendments should be freely given when justice requires, aligning with the federal policy of resolving cases based on substantive rights rather than procedural technicalities. This supports the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure any deficiencies in the pleading.

[Pleading](#)

Litigating Employment Discrimination Cases. Volume 1-2 - James Publishing - Andrew H. Friedman - 2023-05-01

Extract

Rule 15 of the Federal Rules of Civil Procedure sets forth the procedural mechanism for amending and/or supplementing pleadings. An amended pleading allows the plaintiff to amend the complaint to add, modify, or delete claims, parties, the relief sought, and/or allegations regarding events that took place prior to the time that the original pleading was filed. Fed. R. Civ. P. 15(d). ... Federal Rule of Civil Procedure 15(a) dictates that leave to amend a pleading shall be freely given 'when justice so requires,' and the rule expressly grants a plaintiff an opportunity to amend her complaint 'once as a matter of course before being served with a responsive pleading.'

Summary

The passage discusses Rule 15 of the Federal Rules of Civil Procedure, which governs the amendment of pleadings. It emphasizes that leave to amend should be freely given when justice requires, aligning with the proposition that new facts can be added to cure deficiencies. The passage also notes that a plaintiff has the right to amend before a responsive pleading is served, supporting the idea that amendments should be allowed to address insufficiencies.

[Deposing & examining lay witnesses](#)

Deposing & Examining Employment Witnesses - James Publishing - Tod F. Schleier - 2022-03-31

Extract

Rule 15(a), Arizona Rules of Civil Procedure, provides that 'leave to amend shall be freely given when justice requires.' The Arizona Supreme Court has long held that leave to amend must be liberally granted, absent undue delay, bad faith, dilatory motive, undue prejudice or futility in the amendment. See *Spitz v. Bache & Co.*, 122 Ariz. 530, 531, 596 P.2d 365, 366 (1979) (adopting United States Supreme Court's standard for amendment in *Foman v. Davis*, 371 U.S. 178 (1962)); accord *MacCollum v. Perkinson*, 185 Ariz. 179, 185, 913 P.2d 1097, 1103 (Ct. App. 1996).

Summary

Standard for granting leave to amend a complaint, which is to be "freely given when justice requires." This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure any pleading deficiencies. The reference to *Foman v. Davis* further supports this standard, as it is a seminal case in U.S. federal law regarding amendments to pleadings.

[Quality Control International](#)

Decisions of the Board of Contract Appeals

Extract

In considering a motion for leave to amend, we apply the guidance contained in Rule 15 of the Federal Rules of Civil Procedure (FRCP), *id.*, which provides that leave to amend shall be freely given 'when justice so requires.' Fed. R. Civ. P. 15(a)(2). Generally, '[i]n the absence of any apparent or declared reason - such as undue QCI is not ... the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc. - the leave sought should, as the rules require, be 'freely given.'" *Foman v. Davis*, 371 U.S. 178, 182 (1962).

Summary

The Federal Rules of Civil Procedure, specifically Rule 15(a)(2), advocate for granting leave to amend when justice requires it. The passage also references the *Foman v. Davis* case, which supports the notion that amendments should be freely given unless there are specific reasons not to, such as futility or undue prejudice. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

[Ruifei \(Shenzhen\) Smart Tech. Co. v. Shenzhen Chengyan Sci. & Tech. Co., 011223 USTTAB, 92077931](#)

Trademark Trial and Appeal Board

Extract

Petitioner seeks leave under Fed.R.Civ.P. 15(a) to file an amended petition for cancellation to 'amplify' its fraud claim, which was pleaded in the initial Petition for Cancellation, by adding information produced by Respondent in discovery and allegations concerning Respondent Shenzhen Chengyan Science and Technology Co., Ltd.'s Declaration of Use and/or Excusable Nonuse of Mark in Commerce under Trademark Act Section 8 ('Section 8 Declaration'), 15 U.S.C. § 1058, which was filed after this proceeding was instituted.

Summary

The passage discusses a petitioner's request to amend a pleading under Fed. R. Civ. P. 15(a) to include new information obtained during discovery and additional allegations related to a declaration filed after the proceeding began. This aligns with the proposition that leave to amend should be freely given when new facts may cure pleading deficiencies, as it demonstrates a situation where a party seeks to amend a pleading to include new facts that arose after the initial filing.

[Century Sports, Inc. v. Ross Bicycles LLC, 091321 USTTAB, 91265264](#)

Trademark Trial and Appeal Board

Extract

Trademark Rule 2.107(a), 37 C.F.R. § 2.107(a), provides that 'pleadings in an opposition proceeding may be amended in the same manner and to the same extent as in a civil action in a United States district court.' Fed.R.Civ.P. 15(a), applicable to this proceeding pursuant to Trademark Rule 2.116(a), 37 C.F.R. § 2.116(a), encourages the Board to look favorably on motions to amend, stating that the Board 'should freely give leave when justice so requires.' In deciding whether to grant leave to amend, a tribunal may consider undue delay, prejudice to the opposing party, bad faith or dilatory motive, futility of the amendment, and whether the party has previously amended its pleadings. See *Foman v. Davis*, 371 U.S. 178, 182.

Summary

Standard for granting leave to amend pleadings, which is relevant to the proposition. It cites Fed. R. Civ. P. 15(a) and the principle that leave should be freely given when justice requires, aligning with the proposition's emphasis on allowing amendments to cure deficiencies. The reference to *Foman v. Davis* further supports this standard, indicating that courts should consider factors like undue delay and prejudice when deciding on amendments.

[Century Sports, Inc. v. Ross Bicycles LLC, 091321 USTTAB, 91265264](#)

Trademark Trial and Appeal Board

Extract

Trademark Rule 2.107(a), 37 C.F.R. § 2.107(a), provides that 'pleadings in an opposition proceeding may be amended in the same manner and to the same extent as in a civil action in a United States district court.' Fed.R.Civ.P. 15(a), applicable to this proceeding pursuant to Trademark Rule 2.116(a), 37 C.F.R. § 2.116(a), encourages the Board to look favorably on motions to amend, stating that the Board 'should freely give leave when justice so requires.' In deciding whether to grant leave to amend, a tribunal may consider undue delay, prejudice to the opposing party, bad faith or dilatory motive, futility of the amendment, and whether the party has previously amended its pleadings. See *Foman v. Davis*, 371 U.S. 178, 182.

Summary

Standard for granting leave to amend pleadings, referencing Fed. R. Civ. P. 15(a) and the principle that leave should be freely given when justice requires. It also cites *Foman v. Davis*, which is a key case supporting the liberal amendment policy. This aligns with the proposition that leave to amend should be granted to cure deficiencies and add new facts.

[United States v. Agripac, Inc.](#)

DOJ Office of the Chief Administrative Hearing Officer Decisions

Extract

Rules 15(a) and (c) do not prescribe any specific time limit within which a motion for leave to amend or supplement a pleading may be filed. Thus motions to amend have been considered after the close of discovery, after the entry of dismissal or summary judgment, when the case has already been set for hearing, during trial, and even on remand after appeal. 6 Charles Alan Wright et al., *Federal Practice and Procedure* § 1488 (2d ed. 1990). The rule also provides that leave to amend shall be freely granted when justice so requires. See generally, *id.* §§ 1486-87. The Supreme Court has also directed that a liberal approach should be taken in ruling on a motion to amend: In the absence of 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 amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be 'freely given.' *Foman v. Davis*, 371 U.S. 178, 182.

Summary

Application of Federal Rule of Civil Procedure 15(a), which governs amendments to pleadings. It emphasizes that there is no specific time limit for filing a motion to amend and that such motions should be freely granted when justice requires it. The passage cites the Supreme Court's directive in *Foman v. Davis*, which supports a liberal approach to granting leave to amend unless there are specific reasons to deny it, such as undue delay or prejudice. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

[Temitope Ogunrinu v. Law Resources](#)

DOJ Office of the Chief Administrative Hearing Officer Decisions

Extract

"The court should freely give leave when justice so requires." FED. R. CIV. P. 15(a). The D.C. Circuit, the jurisdiction in which this case arises, has held that a trial court abuses its discretion if it denies leave to amend without a sufficiently compelling reason, "such as undue delay, bad faith or dilatory motive, . . . repeated failure to cure deficiencies by [previous] amendments [or] futility of amendment." *Firestone v. Firestone*, 76 F.3d 1205, 1208 (D.C. Cir. 1996) (quoting *Foman v. Davis*, 371 U.S. 178, 182).

Summary

The passage directly references Federal Rule of Civil Procedure 15(a), which states that leave to amend should be freely given when justice requires. It also cites the D.C. Circuit's interpretation that a court abuses its discretion if it denies leave to amend without a compelling reason, aligning with the principles established in *Foman v. Davis*. This supports the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies unless there are specific reasons to deny it.

[Apple Inc. v. Appleton, 121423 USTTAB, 91273129](#)

Trademark Trial and Appeal Board

Extract

Fed. R. Civ. P. 15(a) encourages the Board to 'freely give leave [to amend a pleading] when justice so requires,' 'unless entry of the proposed amendment would violate settle law or be prejudicial to the rights of the adverse party.' ... In view thereof, and insofar as the Board 'should freely give leave [to amend a pleading] when justice so requires,' Fed.R.Civ.P. 15(a), Apple's motion for leave.

Summary

The passage directly references Fed. R. Civ. P. 15(a), which is the rule governing amendments to pleadings in federal court. It emphasizes the principle that leave to amend should be freely given when justice requires it, aligning with the proposition that amendments should be allowed to cure deficiencies or add new facts. The context of the Trademark Trial and Appeal Board proceedings further supports the general applicability of this principle in federal cases.

[Apple Inc. v. Appleton, 121423 USTTAB, 91273129](#)

Trademark Trial and Appeal Board

Extract

Fed. R. Civ. P. 15(a) encourages the Board to 'freely give leave [to amend a pleading] when justice so requires,' 'unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party.' ... In view thereof, and insofar as the Board 'should freely give leave [to amend a pleading] when justice so requires,' Fed.R.Civ.P. 15(a), Apple's motion for leave

Summary

The Federal Rules of Civil Procedure, specifically Rule 15(a), advocate for granting leave to amend pleadings when justice requires it. This aligns with the proposition that leave to amend should be freely given, especially when new facts could address deficiencies in the current pleadings. The passage also references the discretion of the Board to grant such amendments unless they would violate settled law or prejudice the opposing party, which supports the idea of allowing amendments to cure deficiencies.

[US Tech Workers' v. UL LLC](#)

DOJ Office of the Chief Administrative Hearing Officer Decisions

Extract

Rule 15(a) provides that a party may amend its pleading only with the opposing party's written consent or with the court's leave. Further, '[t]he court should freely give leave when justice so requires.' 'Reasons for finding that leave should not be granted include 'undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice... Complainant seeks to amend the Complaint to 'shift from notice pleading to fact pleading to add factual details to the complaint.' Mot. 1. Complainant asserts that the amended complaint merely adds factual detail rather than any new claims,

thus there is no prejudice to Respondent. Mot. 4. In balancing these interests, the Court notes that Respondent has not filed a motion to dismiss in this case and has not responded to the motion to amend. Complainant promptly filed the motion to amend the complaint, and the Court is not aware of any dilatory motives. The Respondent has not sought to test the viability of the Complaint at this juncture. Complainant has not sought to add any new claims, and thus Respondent has had ample notice of the issues in the case.

Summary

Principles under Rule 15(a) of the Federal Rules of Civil Procedure, which states that leave to amend should be freely given when justice requires. It highlights that amendments should be allowed unless there is undue delay, bad faith, or prejudice to the opposing party. The passage also notes that the complainant sought to add factual details without introducing new claims, which aligns with the proposition that new facts may cure pleading deficiencies. The context of the passage is a legal decision that applies these principles, making it relevant to the proposition.

[United States v. MRD Landscaping & Maint., Corp.](#)

DOJ Office of the Chief Administrative Hearing Officer Decisions

Extract

guidance in federal case law. Like the United States Court of Appeals for the Fifth Circuit, the federal judicial circuit in which this case arises, the Court is guided by the United States Supreme Court's reasoning in *Foman v. Davis*, 371 U.S. 178 Specifically, the Court will give leave to amend freely '[i]n the absence of 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 amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.' ... Therefore, the Court gives leave to amend the complaint. See Fed. R. Civ. P.15(a) ('The court should freely give leave when justice so requires.')

Summary

Application of Federal Rule of Civil Procedure 15(a) and the Supreme Court's decision in *Foman v. Davis*, which are both directly relevant to the proposition. The passage explains that leave to amend should be freely given unless there are specific reasons not to, such as undue delay or prejudice. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

[United States v. KLJ Leasing, LLC](#)

DOJ Office of the Chief Administrative Hearing Officer Decisions

Extract

Federal Rule of Civil Procedure 15(a) provides that: '[i]n all other cases, 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.' ... The Court must therefore balance the relevant factors in deciding whether to allow the First Amended Complaint. ... The record does not present evidence of bad faith, dilatory motive, or futility. Respondent has not opposed the motion, and the Court does not find undue prejudice to Respondent at this juncture. Accordingly, the Court will grant Complainant's motion.

Summary

Application of Federal Rule of Civil Procedure 15(a), which states that leave to amend should be freely given when justice requires. The court in this case considered factors such as the absence of bad faith, dilatory motive, futility, and undue prejudice to the respondent, ultimately granting the motion to amend. This aligns with the proposition that leave to amend should be granted to cure pleading deficiencies and add new facts.

[United States v. KLJ Leasing, LLC](#)

DOJ Office of the Chief Administrative Hearing Officer Decisions

Extract

Federal Rule of Civil Procedure 15(a) provides that: '[i]n all other cases, 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.' ... The Court must therefore balance the relevant factors in deciding whether to allow the First Amended Complaint. ... The record does not present evidence of bad faith, dilatory motive, or futility. Respondent has not opposed the motion, and the Court does not find undue prejudice to Respondent at this juncture. Accordingly, the Court will grant Complainant's motion.

Summary

Application of Federal Rule of Civil Procedure 15(a), which states that leave to amend should be freely given when justice requires. The court in this case considered factors such as the absence of bad faith, dilatory motive, futility, and undue prejudice to the respondent, ultimately granting the motion to amend. This aligns with the proposition that leave to amend should be granted to cure pleading deficiencies and add new facts.

DOJ Office of the Chief Administrative Hearing Officer Decisions

Extract

guidance in federal case law. Like the United States Court of Appeals for the Fifth Circuit, the federal judicial circuit in which this case arises, the Court is guided by the United States Supreme Court's reasoning in *Foman v. Davis*, 371 U.S. 178 . . . Specifically, the Court will give leave to amend freely '[i]n the absence of 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 amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.' . . . Therefore, the Court gives leave to amend the complaint. See Fed. R. Civ. P. 15(a) ('The court should freely give leave when justice so requires.')

Summary

Application of Federal Rule of Civil Procedure 15(a) and the Supreme Court's decision in *Foman v. Davis*, which are both directly relevant to the proposition. The passage explains that leave to amend should be freely given unless there are specific reasons not to, such as undue delay or prejudice. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

Securities and Exchange Commission Decisions

Extract

Federal courts have held that leave to amend under Federal Rule of Civil Procedure 15 should not be denied simply because a defendant might be subject to greater liability as a result of an amendment. See, e.g., *Bush v. Ruth's Chris Steak House, Inc.*, 277 F.R.D. 214, 216 (D.D.C. 2011) (holding that '[u]ndue prejudice is not implicated merely because the proposed amendment would 'increase defendant's potential liability' (quoting 6 Charles Alan Wright et al., *Federal Practice and Procedure* § 1487, at 723 (3d ed. 2010)); see also *Maiaro v. Alarm Specialists, Inc.*, No. 13-cv-08658 (NSR), 2014 WL 5285695, at *3 (S.D.N.Y. Oct. 15, 2014) (holding that 'increased potential liability is 'not the type of prejudice that warrant[s] denial of leave to amend the complaint' (quoting *In re Osage Exploration Co.*, 104 F.R.D. 45, 49 (S.D.N.Y. 1984))).

Summary

Principle that leave to amend should not be denied merely because it might increase a defendant's potential liability. This aligns with the liberal amendment policy under Rule 15(a), which supports amendments when justice requires, especially to cure deficiencies. The passage cites case law supporting this principle, reinforcing the idea that amendments should be allowed to add new facts or correct issues in the pleadings.

[In re Tagliaferri, 090215 SEC, 3-15215](#)

Securities and Exchange Commission Decisions

Extract

Federal courts have held that leave to amend under Federal Rule of Civil Procedure 15 should not be denied simply because a defendant might be subject to greater liability as a result of an amendment. See, e.g., *Bush v. Ruth's Chris Steak House, Inc.*, 277 F.R.D. 214, 216 (D.D.C. 2011) (holding that '[u]ndue prejudice is not implicated merely because the proposed amendment would 'increase defendant's potential liability' (quoting 6 Charles Alan Wright et al., *Federal Practice and Procedure* § 1487, at 723 (3d ed. 2010)); see also *Maiaro v. Alarm Specialists, Inc.*, No. 13-cv-08658 (NSR), 2014 WL 5285695, at *3 (S.D.N.Y. Oct. 15, 2014) (holding that 'increased potential liability is 'not the type of prejudice that warrant[s] denial of leave to amend the complaint' (quoting *In re Osage Exploration Co.*, 104 F.R.D. 45, 49 (S.D.N.Y. 1984))).

Summary

Principle that leave to amend should not be denied merely because it might increase a defendant's potential liability. This aligns with the liberal amendment policy under Federal Rule of Civil Procedure 15, which supports amendments when justice requires, especially to cure deficiencies. The passage cites case law supporting this principle, reinforcing the idea that amendments should be allowed to ensure justice and proper case development.

[Precedential No. 3: TTAB Grants Motion To Supplement Notice Of Opposition To Add Post-Filing Trademark Applications](#)

Extract

FRCP 15(a) 'encourages the Board to look favorably on motions to amend, stating that the Board 'should freely give leave when justice so requires.' In considering a motion to amend, the Board may take into account any undue delay, prejudice to the opposing party, bad faith or dilatory motive, futility of

the amendment, and the number of previous amendments. See *Foman v. Davis*, 371 U.S. 178, 182.

Summary

The passage directly references FRCP 15(a), which is the rule governing amendments to pleadings in federal court, and emphasizes the principle that leave to amend should be freely given when justice requires it. It also cites *Foman v. Davis*, a key Supreme Court case that outlines the factors courts should consider when deciding whether to grant leave to amend, such as undue delay, prejudice, and futility. This aligns with the proposition that leave to amend should be granted to allow the plaintiff to add new facts and cure deficiencies.

[Precedential No. 3: TTAB Grants Motion To Supplement Notice Of Opposition To Add Post-Filing Trademark Applications](#)

Extract

FRCP 15(a) 'encourages the Board to look favorably on motions to amend, stating that the Board 'should feel free to give leave when justice so requires.'" In considering a motion to amend, the Board may take into account any undue delay, prejudice to the opposing party, bad faith or dilatory motive, futility of the amendment, and the number of previous amendments. See *Foman v. Davis*, 371 U.S. 178, 182.

Summary

The passage directly references FRCP 15(a), which is the rule governing amendments to pleadings in federal court. It emphasizes that leave to amend should be freely given when justice requires, aligning with the proposition that new facts may cure pleading deficiencies. The passage also cites *Foman v. Davis*, a key case supporting the liberal amendment policy, which is directly relevant to the proposition. The context of the passage is a legal analysis of a motion to amend, which is applicable to the proposition's context of seeking leave to amend a complaint.

[Tenth Circuit Reverses Dismissal Of Putative Class Action, Holding That Statute Of Repose Did Not Bar Filing Of Second Amended Complaint](#)

Extract

Plaintiff had requested leave to amend in a footnote. The district court determined that a separate motion for leave to amend would be required, but that the dismissal would be without prejudice, because new facts to support plaintiff's claims might emerge through then-pending antitrust litigation. ... The district court denied the motion to reconsider, but granted leave to amend, clarifying that it 'ha[d] not yet reviewed the proposed

Second Amended Complaint' and that plaintiff should submit his second amended complaint if there are 'genuinely new facts that are materially different.'

Summary

The district court allowed the plaintiff to amend the complaint to include new facts that could support the claims, even after initially dismissing the complaint. This aligns with the principle that leave to amend should be freely given when justice requires, especially when new facts may address deficiencies in the original pleading.

This memo was compiled by Vincent AI based on vLex materials available as of September 09, 2025. [View full answer on vLex](#)