

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**BRIAN C. WILLIAMS, et al.  
PLAINTIFFS,**

**v.**

**THE ESTATES LLC, et al.  
DEFENDANTS.**

**Case No.: 1:19-cv-01076-CCE-JLW**

**MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 15(a), Local Rule 15.1, and the parties' Joint Rule 26(f) Report, Plaintiffs respectfully move the Court for leave to file their First Amended Complaint. In support of this Motion, Plaintiffs show the Court:

1. Plaintiffs filed suit against Defendants for engaging in a bid-rigging scheme in violation of Section 1 of the Sherman Antitrust Act and related state law claims. In Plaintiffs' original complaint, Plaintiffs did not have adequate information to fully articulate the broad extent of the bid-rigging scheme.

2. Specifically, Plaintiffs did not have information regarding how the Estates Cartel was structured, the pervasive role of founder Craig Brooksby, or the identities of the limited liability companies used to bid on properties in foreclosures or the LLCs used to hold the properties after sale.

3. Further, the Plaintiffs did not have sufficient information to identify the size and scope of the proposed class.

4. Throughout the discovery process, Plaintiffs have gained a clearer understanding of the structure of the Estates Cartel, Brooksby's role, and have been able to identify many of the LLCs used by Defendants to perpetuate their bid-rigging scheme.

5. The proposed Second Amended Complaint adds many of the parties identified as Does in the original Complaint, explains the scope of the proposed class, and further describes the bid-rigging scheme at play here. A copy of the proposed First Amended Complaint is attached to the Motion as **Exhibit "A"**.

6. Federal Rule of Civil Procedure 15(a) contemplates that a court will freely grant leave to file an amended complaint when the interests of justice so require. In the Fourth Circuit, a motion to amend the complaint may only be denied upon a finding of prejudice to the opposing party, bad faith on the part of the moving party, or the futility of the amendment. Johnson v. Oroweat Foods Co., 785 F.2d 503, 509–10 (4th Cir.1986).

7. Under this Court's previous order on Class Certification and the parties' Joint 26(f) Report, this motion is timely. But even if it were not, "delay alone is not sufficient reason to deny leave to amend." Id.

8. Bad faith amendments are those which may be abusive or made in

order to secure some ulterior tactical advantage.” GSS Properties, Inc. v. Kendale Shopping Ctr., Inc., 119 F.R.D. 379, 380 (M.D.N.C. 1988). There is no indication of bad faith here. In fact, the opposite is true. Because Plaintiffs’ claims accuse the Defendants of engaging in a systemic bid-rigging operation that utilizes hundreds of different companies and individual actors, it was essential that Plaintiffs’ facts be correct and pleaded with as much specificity as possible. Furthermore, it was impossible to verify the allegations and identify all potential defendants or plaintiffs without access to specific documents from Defendants.

9. Defendants will not be prejudiced from these amendments as the added defendants and information arise out of the same operative facts as previously pleaded in the complaint, the Plaintiffs are raising these claims before discovery has been completed, and any newly named Defendant is owned or operated by a previously named Defendant with notice of the claims.

10. Nor is the amendment futile. Defendants admit several of the newly added Defendants are limited liability companies utilized by the Estates and its representatives to carry out bidding at foreclosures. While the Defendants can defend against these claims of bid-rigging, the involvement of the newly named LLCs in the Estates’ operation is not a factual issue that will be refuted by Defendants.

WHEREFORE, Plaintiffs respectfully ask that the Court grant Plaintiffs leave to file their First Amended Complaint and for such other relief as the Court deems just and proper.

Dated: October 23, 2020

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