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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

GARY REITER et al.,
Petitioners,

v.

THE SUPERIOR COURT OF
RIVERSIDE COUNTY,
Respondent;

SBC ASSET MANAGEMENT INC.,
Real Party in Interest.

E058984

(Super.Ct.No. RIC 1120281)

OPINION

ORIGINAL PROCEEDINGS; petitions for writ of mandate and/or prohibition.

Matthew C. Perantoni, Judge. Petitions granted.

Law Offices of George S. Burns and George S. Burns for Petitioner Gary Reiter.

Callahan & Blaine, Daniel J. Callahan, Edward Susolik and Michael LeBoff for
Petitioners Richard C. Agnew and Katharine Agnew as trustee, etc.

No appearance for Respondent.

Assayag Mauss and Randolph A. Bain; King & Associates and Raymond King for
Real Party in Interest.

DISCUSSION

In this matter we have reviewed the petitions and the oppositions filed by real party in interest. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

It is well established that courts should apply a liberal policy in favor of allowing amendments, and generally a distinct showing of prejudice is necessary to overcome this preference for granting leave to amend. (*Fair v. Bakhtiari* (2011) 195 Cal.App.4th 1135, 1147 (*Fair*)). It has even been said that it is a “rare” case in which a court will be justified in denying leave to amend. (*Board of Trustees v. Superior Court* (2007) 149 Cal.App.4th 1154, 1163.)

In our view this is not such a “rare” case. Although, arguably, there was some delay on the part of petitioners in seeking leave to amend, real party’s showing of prejudice was too speculative to overcome the policy of liberality. Although we review for abuse of discretion (*Fair, supra*, 195 Cal.App.4th 1135, 1147), the absence of concrete prejudice to the opposing party may demonstrate such an abuse. (*Ibid.*)

Accordingly, petitioners’ motions should have been granted, and we will grant those petitions.

DISPOSITION

Let a peremptory writ of mandate issue, directing the Superior Court of Riverside County to vacate its order denying petitioners' motions for leave to amend their answers, and to enter a new order granting said motions.

Petitioners are directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties. Petitioners are to recover their costs.

The previously ordered stay is lifted.

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CODRINGTON
J.

We concur:

RAMIREZ
P. J.

KING
J.