

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

Blessed Cajuns LLC, et al.

Plaintiffs,

v.

Isabella Casillas Guzman, et al.,

Defendants.

Case No. 4:21-cv-00677-O

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT**

The plaintiffs respectfully ask for leave to file a second amended complaint. The second amended complaint will seek damages under *Bivens* on behalf of restaurateurs who applied for relief shortly after the Restaurant Revitalization Fund opened for applications on May 3, 2021, but who never obtained funds on account of the unconstitutional race and sex preferences established in section 5003 of the American Rescue Plan Act. It will also seek declaratory relief and a permanent injunction to prevent the defendants from clawing back money awarded to the plaintiffs in violation of the statutory command of section 5003.

Rule 15(b) allows a party to seek leave to amend “at any time, even after judgment . . . to conform [the pleadings] to the evidence and to raise an unpleaded issue.” Fed. R. Civ. P. 15(b). And a court “should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). Leave to amend is appropriate and consistent with justice because the circumstances of this case have changed now that the Restaurant Revitalization Fund is fully depleted, and the plaintiffs must alter their requested relief to reflect this fact. Leave to amend is appropriate and consistent with justice for

the additional reason that the plaintiffs that will be added the case have no other remedy to pursue now that the funds have been spent.

We have attached a clean copy of our proposed second amended complaint, as well as a redlined version that shows all the proposed changes.

CONCLUSION

The plaintiffs' motion for leave to file a second amended complaint should be granted.

Respectfully submitted.

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Dated: July 30, 2021

*Counsel for Plaintiffs and
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CERTIFICATE OF CONFERENCE

I certify that I have conferred with Christopher D. Dodge, counsel for the defendants, and he informed me that the defendants oppose this motion.

/s/ Jonathan F. Mitchell
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CERTIFICATE OF SERVICE

I certify that on July 30, 2021, I served this document through CM/ECF upon:

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