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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THOMAS MICHAEL BENHOFF,)	Case No. CV 07-07922 DDP (JWJx)
)	
Plaintiff,)	ORDER GRANTING MOTION TO FILE
)	FIRST AMENDED ANSWER
v.)	
)	[Motion filed on July 29, 2009]
DIANA WIGAND; STEVE UNGER;)	
KATHY PEZDEK; the CALIFORNIA)	
DEPARTMENT OF JUSTICE ,)	
)	
Defendants.)	
_____)	

This matter comes before the Court on Motion by Defendants to file a First Amended Answer to Plaintiff's First Amended Complaint. As of the date of this Order, Plaintiff has not filed an Opposition to the Motion. After reviewing the materials submitted by the moving parties, the Court grants the Motion.

I. PROCEDURAL BACKGROUND

Plaintiff's First Amended Complaint ("FAC") alleges that Defendants Diana Wigand, Steve Unger, and Kathy Pezdek ("Defendants") maliciously instituted an investigation and prosecution of plaintiff for failure to comply with California Penal Code § 296.1, which requires a convicted sex offender to

1 register his current address with local law enforcement agencies.
2 As relevant here, the FAC seeks relief on the basis of state law
3 claims for false arrest, false imprisonment, negligence, and fraud.
4 Plaintiff filed his FAC on May 30, 2008. Defendants filed their
5 Answer on February 24, 2009. The Court's June 16, 2009 Scheduling
6 Order sets September 8, 2009 as the last day to amend the pleadings
7 or join other parties. Scheduling Order at 2 (Doc. No. 27) (June
8 16, 2009). Defendants, who are all peace officers employed by the
9 California Bureau of Investigation, seek leave to file a First
10 Amended Answer ("FAA") adding affirmative defenses applicable to
11 the state law claims. According to Defendants, those affirmative
12 defenses are based on statutes that provide qualified immunity as
13 to the state law claims.

14 **II. DISCUSSION**

15 Central District of California Local Rule 7-9 requires an
16 opposing party to file an opposition or a statement of non-
17 opposition to any motion at least fourteen (14) days prior to the
18 date designated for the hearing of the motion. See C.D. Cal. L.R.
19 7-9. Additionally, Local Rule 7-12 provides that "[t]he failure to
20 file any required paper, or the failure to file it within the
21 deadline, may be deemed consent to the granting or denial of the
22 motion." C.D. Cal. L.R. 7-12.

23 Additionally, pursuant to Federal Rule of Civil Procedure
24 15(a)(2), a party may amend its pleading only with the leave of the
25 Court, but the Court "should freely give leave when justice so
26 requires." Fed. R. Civ. P. 15(a)(2). In light of the federal
27 policy favoring the determination of cases on their merits, this
28 policy is to be applied with "extreme liberality." Eminence

1 Captial, LLC v. Aspeon, Inc., 316 F.3d 1048, 1051 (9th Cir. 2003).
2 Factors that may justify denying a Rule 15(a)(2) motion include
3 undue delay, bad faith, dilatory motive, repeated failure to cure
4 deficiencies by amendments previously allowed, undue prejudice to
5 the opposing party by virtue of the allowance of the amendment, and
6 futility of amendment. Foman v. Davis, 371 U.S. 178, 182 (1962).
7 "In the absence of any apparent or declared reason," however, "the
8 leave sought should, as the rules require, be 'freely given.'" Id.

9 Defendants noticed their motion for a hearing date of August
10 24, 2009. Plaintiff's response was therefore due on August 10. As
11 of that date, Plaintiff had not filed an Opposition or statement of
12 Non-Opposition. As of the date of this Order, Plaintiff has still
13 not filed an Opposition. The Court deems Plaintiff's failure to
14 Oppose the motion as consent to the granting of the Motion. C.D.
15 Cal. L.R. 7-12. Moreover, under the liberal standard provided by
16 Rule 15(a)(2), the Court finds amendment in the interests of
17 justice. The Court therefore grants the motion.

18 IT IS SO ORDERED.

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Dated: August 18, 2009


DEAN D. PREGERSON
United States District Judge