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**United States District Court  
Central District of California**

10 DOLORES MARTINEZ,  
11 Plaintiff,

12 v.

13 NAVY LEAGUE OF THE UNITED  
14 STATES,  
15 Defendant.

Case No. 2:13-cv-5533-ODW(FFMx)

**ORDER GRANTING  
DEFENDANT'S MOTION FOR  
LEAVE TO AMEND ANSWER [49]  
AND SETTING DEADLINE FOR  
MANDATORY SETTLEMENT  
CONFERENCE**

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17 Before the Court is Defendant Navy League of the United States' Motion for  
18 Leave to Amend Answer filed on April 8, 2014. (ECF No. 49.) In the Motion, Navy  
19 League seeks leave to amend its original Answer, filed on February 19, 2014, to add  
20 an affirmative defense under California Civil Code section 846. Plaintiff Dolores  
21 Martinez, who is representing herself in this action, filed a timely Opposition to the  
22 Motion. (ECF No. 53.) Having carefully considered the papers filed in support of  
23 and in opposition to the Motion, the Court deems the matter appropriate for decision  
24 without oral argument. Fed. R. Civ. P. 78; L.R. 7-15.

25 Federal Rule of Civil Procedure 15(a)(2) instructs courts to "freely give leave to  
26 amend when justice so requires." The decision whether to permit leave to amend rests  
27 in the sound discretion of the trial court. *California v. Neville Chem. Co.*, 358 F.3d  
28 661, 673 (9th Cir. 2004). In determining whether leave to amend should be granted,

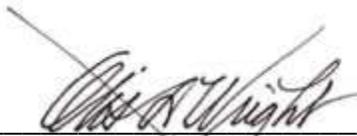
1 at least four factors are considered: (1) undue delay; (2) bad faith or dilatory motive;  
2 (3) prejudice to the opposing party; and (4) futility of amendment. *Foman v. Davis*,  
3 371 U.S. 178, 182 (1962); *Ditto v. McCurdy*, 510 F.3d 1070, 1079 (9th Cir. 2007).

4 Here, the Court finds no undue delay in Navy League seeking leave to amend  
5 its answer. This Motion was filed less than two months after the answer was filed and  
6 the deadline to amend pleadings is still months away. The Court also finds no  
7 evidence of bad faith or dilatory motive on the part of Navy League in seeking leave  
8 to amend. The fact that this case remains in its early stages also suggests that  
9 amending the Answer would cause no prejudice to Martinez. Finally, amendment  
10 would not be futile since Navy League is seeking to add what appears to be a viable  
11 affirmative defense. Accordingly, the Court **GRANTS** Navy's League's Motion for  
12 Leave to Amend Answer. (ECF No. 49.) Navy League shall file an amended answer  
13 **no later than Tuesday, May 13, 2014.**

14 The Court also notes that this case has been languishing in the pleading stages  
15 for six months due to a considerable amount of motion practice. The Court is familiar  
16 with the facts and issues of this case and believes that the parties' time would be better  
17 spent attempting settlement. Therefore, notwithstanding the settlement conference  
18 deadline in the Scheduling and Case Management Order, the Court **ORDERS** the  
19 parties to contact the Magistrate Judge assigned to this action **within 7 days** of this  
20 Order to schedule a mandatory settlement conference for the first available date on the  
21 Magistrate Judge's calendar.

22 **IT IS SO ORDERED.**

23  
24 April 28, 2014

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27 **OTIS D. WRIGHT, II**  
28 **UNITED STATES DISTRICT JUDGE**