



1 “Rule 15(a) is very liberal and leave to amend ‘shall be freely given when justice so requires.’”  
2 AmerisourceBergen Corp. v. Dialysis West, Inc., 445 F.3d 1132, 1136 (9th Cir. 2006) (quoting Fed. R.  
3 Civ. P. 15(a)). However, courts “need not grant leave to amend where the amendment: (1) prejudices  
4 the opposing party; (2) is sought in bad faith; (3) produces an undue delay in the litigation; or (4) is  
5 futile.” Id. The factor of “[u]ndue delay by itself . . . is insufficient to justify denying a motion to  
6 amend.” Owens v. Kaiser Foundation Health Plan, Inc., 244 F.3d 708, 712,13 (9th Cir. 2001) (quoting  
7 Bowles v. Reade, 198 F.3d 752, 757-58 (9th Cir. 1999)).

8 Here, plaintiff’s case has been pending since February 12, 2009 and now proceeds on the First  
9 Amended Complaint filed March 5, 2009. The delay in litigation will be further extended if plaintiff  
10 is given leave to amend. However, given that the complaint has not been served, and no other party has  
11 appeared in the action, amending the complaint will not prejudice the opposing party. The court has  
12 reviewed the proposed Second Amended Complaint and finds no evidence of bad faith or futility.  
13 Therefore, in the interest of justice, plaintiff’s motion to amend the complaint shall be granted.

14 Based on the foregoing, it is HEREBY ORDERED that:

- 15 1. Plaintiff is GRANTED leave to amend the complaint; and
- 16 2. The Clerk of the Court SHALL FILE the Second Amended Complaint which was lodged  
17 on January 13, 2010.

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19 IT IS SO ORDERED.

20 **Dated:** April 1, 2010

21 /s/ Sandra M. Snyder  
22 UNITED STATES MAGISTRATE JUDGE  
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