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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BARRY BAUER, et al.,

CASE NO. 1:11-cv-01440-LJO-MJS

Plaintiffs,

ORDER GRANTING MOTION FOR LEAVE  
TO FILE SECOND AMENDED COMPLAINT

v.

(Doc. 33)

KAMALA D. HARRIS, et al.,

ORDER DIRECTING PLAINTIFF TO FILE  
SECOND AMENDED COMPLAINT

Defendants.

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**I. INTRODUCTION**

This matter is before the Court on Plaintiffs’ June 13, 2013, motion for leave to file a second amended complaint. (ECF No. 33.) In the memorandum of points and authorities supporting the motion, Plaintiffs explain that the purpose of the amended complaint is to remove claims that have been affected by recent California legislation:

Plaintiffs’ Second Amended Complaint, attached to Plaintiffs’ Notice of Motion as Exhibit “A,” removes all claims challenging the fees provided for by California Penal Code Sections 28300(c), 23690(a), and 31650(c) (i.e., all fees but the Dealers Record of Sale [DROS] Fee). It also removes all claims addressing the excessive nature of the DROS Fee. This streamlining of the case was prompted by California’s recent passage of Senate Bill 140

1 (SB 140), appropriating monies from the DROS Special Account to funding  
2 the Armed Prohibited Persons System (APPS).

3 (Memo. of P&A's, ECF No. 33-1 at 2.)

4 On July 9, 2013, Defendants filed a statement of non-opposition to the motion to  
5 amend. (ECF No. 35.)

6 **II. LEGAL STANDARD**

7 Federal Rules of Civil Procedure 15(a)(2) authorizes the Court to grant leave to  
8 amend in a case at this procedural stage and directs: "[A] party may amend its pleading  
9 only with the opposing party's written consent or the court's leave. The court should freely  
10 give leave when justice so requires." Both parties recognize the great liberality with which  
11 leave to amend is be granted under Rule 15(a)(2). Eminence Capital, LLC v. Aspeon, Inc.,  
12 316 F. 3d 1048, 1051 (9th Cir. 2003). Generally, leave to amend should be given absent  
13 a showing of futility, undue prejudice, bad faith or dilatory motive by the moving party.  
14 Foreman v. Davis, 371 U.S. 178, 182 (1962); Martinez v. Newport Beach City, 125 F. 3d.  
15 777, 785 (9th Cir. 1997).  
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18 **III. ANALYSIS**

19 The Court finds good cause to amend the complaint given the enactment of  
20 California Senate Bill 140 on May 7, 2013 and its effect on the claims of the present  
21 complaint. The parties met and conferred after the enactment of Senate Bill 140, and  
22 "agreed that the best course of action for both the Court and the parties is for Plaintiffs to  
23 amend their complaint to reduce the number of issues to be tried to streamline the lawsuit  
24 into a single Second Amendment claim challenging only one of the fees currently at issue  
25 in this litigation, and to set a new scheduling order accordingly." (Decl. of Sean A. Brady,  
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1 ECF No. 33-3, ¶ 9.) Given good cause and the consent of Defendants, the Court hereby  
2 GRANTS Plaintiff's motion to amend the complaint.

3 **IV. ORDER**

4 The Court ORDERS as follows:

- 5
- 6 1. Plaintiff's Motion for Leave to File a Second Amended Complaint be GRANTED;
  - 7 2. The motion hearing presently set for July 26, 2013, is hereby VACATED; and
  - 8 3. Plaintiff is hereby ordered to file the Second Amended Complaint within ten (10)  
9 days of the service of this order.
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13 IT IS SO ORDERED.

14 Dated: July 22, 2013

15 *1st Michael J. Seng*  
16 UNITED STATES MAGISTRATE JUDGE

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