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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID ESTRADA,)	1:13cv00919 LJO DLB PC
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S
)	MOTION TO AMEND
vs.)	(Document 50)
)	
GIPSON, et al.,)	
)	
Defendants.)	

Plaintiff David Estrada (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this this civil action. Plaintiff filed this action on June 17, 2013. On August 8, 2013, Plaintiff filed a First Amended Complaint (“FAC”). This action is proceeding on the following claims: (1) retaliation in violation of the First Amendment against Defendants Gipson and Espinosa; and (2) violation of the Eighth Amendment against Defendants Gipson, Espinosa, Lambert and Cavazos.

Plaintiff returned service documents and the Court directed the United States Marshall to serve Defendants Gipson, Espinosa, Lambert and Cavazos on October 11, 2013.

1 On December 23, 2013, Plaintiff filed a document entitled, "Changed Pleading."¹ Based
2 on the rules cited by Plaintiff, the Court construes this as a Motion to Amend.

3 "Rule 15(a) is very liberal and leave to amend 'shall be freely given when justice so
4 requires.'" AmerisourceBergen Corp. v. Dialysis West, Inc., 465 F.3d 946, 951 (9th Cir. 2006)
5 (quoting Fed. R. Civ. P. 15(a)). However, courts "need not grant leave to amend where the
6 amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue
7 delay in the litigation; or (4) is futile." Id. The factor of "[u]ndue delay by itself . . . is
8 insufficient to justify denying a motion to amend.'" Owens v. Kaiser Foundation Health Plan,
9 Inc., 244 F.3d 708, 712-13 (9th Cir. 2001) (quoting Bowles v. Reade, 198 F.3d 752, 757-58 (9th
10 Cir. 1999)).

11
12 This Court has already screened Plaintiff's FAC and ordered service. In fact, at least
13 three Defendants have been served and have requested an extension of time to respond to the
14 FAC. Therefore, at this stage of the proceeding, Plaintiff cannot amend as a matter of course
15 pursuant to Federal Rule of Civil Procedure 15(a).

16 The Court also declines to permit an amendment at this juncture. At least three
17 Defendants have been served and are preparing a response to the FAC. Allowing an amendment
18 at this time would create undue delay and would prejudice Defendants.

19 Accordingly, Plaintiff's motion is DENIED WITHOUT PREJUDICE. Once Defendants
20 have filed a response and can oppose a motion to amend, Plaintiff may move to amend again if
21 he so chooses.

22
23 IT IS SO ORDERED.

24
25 Dated: December 30, 2013

/s/ Dennis L. Beck
26 UNITED STATES MAGISTRATE JUDGE

27 ¹ Plaintiff filed two documents on December 23, 2013. In addition to the instant filing, Plaintiff filed another
28 document also entitled "Changed Pleading." ECF No. 49. The Court disregarded this document because it was
unclear what relief Plaintiff was seeking.