UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CORINA MAREZ, as Guardian ad Litem for E.R., K.R., and S.R., minors; and RUBY RODRIGUEZ, an individual,

Plaintiffs,

v.

COUNTY OF STANISLAUS, et al.,

Defendants.

No. 1:14-CV-00662-KJM-SKO

ORDER

On April 8, 2015, plaintiffs filed an *ex parte* application for leave to file a third amended complaint. ECF No. 61. The proposed third amended complaint deletes one claim against Stanislaus County and the Stanislaus County Sheriff's Department, in which the plaintiffs alleged violations of California Government Code section 845.6, and adds a claim for violation of 42 U.S.C. § 1983 against the same two defendants. *See* Proposed Third Am. Compl., ECF No. 61-1. These changes were spurred by the County's and Sheriff's Department's pending motion for summary judgment, which argues the section 845.6 claims were defective. *See* Mot. Summ. J. 4–11, ECF No. 60. Filing of the proposed third amended complaint would render this pending motion moot. No party filed an opposition to the plaintiffs' *ex parte* application.

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Federal Rule of Civil Procedure 15 governs amendments to the pleadings. Its policy favors amendment, and leave to amend should normally be granted unless amendment "would cause the opposing party undue prejudice, is sought in bad faith, constitutes an exercise in futility, or creates undue delay." *Ascon Props., Inc. v. Mobil Oil Co.*, 866 F.2d 1149, 1160 (9th Cir. 1989). Here, it appears the amendment will cause no undue prejudice, is not sought in bad faith, is not futile, and will not unduly delay the proceedings. As noted above, no party opposed the application. The discovery cutoff and dispositive motion deadline are currently set in 2016.

The *ex parte* application is GRANTED. The proposed third amended complaint is deemed FILED. The pending motion for summary judgment is DENIED AS MOOT. This order resolves ECF Nos. 60 and 61.

IT IS SO ORDERED.

DATED: April 15, 2015.

UNITED STATES DISTRICT JUDGE