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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

COSME PRESAS,

Plaintiff,

v.

WATCHTOWER BIBLE AND TRACT  
SOCIETY OF NEW YORK, et al.,

Defendants.

CASE NO. 1:14-cv-01740---SKO

**ORDER GRANTING PLAINTIFF’S  
MOTION TO AMEND THE COMPLAINT  
AND ACCEPTING PLAINTIFF’S  
SECOND AMENDED COMPLAINT AS  
FILED**

(Doc. 14)

On November 7, 2014, Plaintiff Cosme Presas (“Plaintiff”), a state prisoner proceeding pro se and *in forma pauperis*, filed this action against Defendants Watchtower Bible and Tract Society (“the Society”), Olivia Moreno, Wayne Frazee, and several Doe defendants (collectively “Defendants”). (Doc. 1.)

On February 26, 2015, Plaintiff filed a motion to amend the complaint and concurrently filed a Second Amended Complaint. (Docs. 14, 15.) After the first amendment, Plaintiff may amend his pleading only with the opposing parties’ written consent or with the Court’s leave. Fed. R. Civ. P. 15(a). The factors commonly considered to determine the propriety of a motion for leave to amend are: (1) bad faith, (2) undue delay, (3) prejudice to the opposing party, and (4) futility of amendment. *Foman v. Davis*, 371 U.S. 178, 182 (1962); *AmerisourceBergen Corp. v.*

1 *Dialysis West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006). The Ninth Circuit has instructed that the  
2 policy favoring amendments “is to be applied with extreme liberality.” *Morongo Band of Mission*  
3 *Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990).

4 It is the consideration of prejudice to the opposing party that carries the greatest weight.  
5 *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003). Absent  
6 prejudice, a presumption in favor of granting leave to amend exists under Rule 15(a). *Id.* Further,  
7 undue delay alone is insufficient to justify denial of a motion to amend. *Bowles v. Reade*, 198  
8 F.3d 752, 758 (9th Cir. 1999). Here, Plaintiff has not delayed in seeking to amend his complaint  
9 and does not seek to amend in bad faith. Most importantly, no defendant has yet been served, so  
10 amendment cannot prejudice any opposing party.

11 The Court hereby accepts Plaintiff’s Second Amended Complaint and deems it filed as  
12 Plaintiff’s First Amended Complaint concurrently with this Order.

13 **CONCLUSION AND ORDER**

14 For the reasons set forth above, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff’s motion to amend the complaint is GRANTED; and
- 16 2. Plaintiff’s concurrently filed Second Amended Complaint is accepted and deemed  
17 the operative complaint.

18  
19 IT IS SO ORDERED.

20 Dated: February 27, 2015

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE