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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES and the STATE OF CALIFORNIA ex rel. NICOLE O’NEILL, and NICOLE,

Plaintiff,

v.

SOMNIA, INC., PRIMARY ANESTHESIA SERVICES, MCKESSON CORPORATION, ROBERT GOLDSTEIN, M.D., ROY WINSTON, M.D., BYRON MENDENHALL, M.D., QUINN GEE, M.D., and MARGARET VASSILEV, M.D., and DOES 1 through 10 inclusive,

Defendants.

No. 1:15-cv-00433-GSA-DAD

ORDER GRANTING PLAINTIFF LEAVE TO FILE FIRST AMENDED COMPLAINT AND DENY MOTIONS TO DISMISS AS MOOT

(Doc. Nos. 29, 31, 39)

The parties’ have submitted a stipulation that plaintiff be granted leave to file a first amended complaint in this action. (Doc. No. 39.) By way of background, on June 7, 2017 the Somnia defendants and defendant McKesson filed separate motions to dismiss. (Doc. Nos. 29, 31.) Plaintiff’s opposition to defendants’ motion to dismiss is due July 7, 2017. However, as indicated in the parties’ stipulation, plaintiff now intends to file a first amended complaint because the “original complaint erroneously named McKesson Corporation as a defendant, when the business entity that is actually described in the complaint was a subsidiary of McKesson Corporation which had previously been transferred to Change Healthcare, Inc., and is now known

1 as PST Services LLC.” (Doc. No. 39 at 2.)

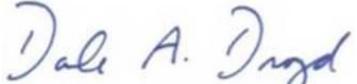
2 Federal Rule of Civil Procedure 15(a)(2) provides, “a party may amend its pleading only
3 with the opposing party’s written consent or the court’s leave.” Here, since all parties have
4 stipulated to plaintiff’s filing of a first amended complaint, the pending motions to dismiss (Doc.
5 Nos. 29, 31) are rendered moot and the August 1, 2017 hearing date on those motions will be
6 vacated.

7 For these reasons:

- 8 1. Defendants’ motions to dismiss (Doc. Nos. 29, 31) are denied as having been rendered
9 moot by this order;
- 10 2. Plaintiff shall file a first amended complaint by July 7, 2017;
- 11 3. Defendants shall file their responses¹ or answer to the first amended complaint by
12 August 7, 2017;
- 13 4. Plaintiff shall file her oppositions to defendants’ motions to dismiss the first amended
14 complaint, if any, by September 6, 2017 to; and
- 15 5. Defendants shall file any replies in support of any motions to dismiss by September
16 20, 2017.

17 IT IS SO ORDERED.

18 Dated: June 29, 2017

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20 _____
21 UNITED STATES DISTRICT JUDGE

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28 ¹ If defendants response is a motion to dismiss, the motion shall be noticed for hearing in keeping
with Local Rule 230(b).