

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

VANCE UTLEY,  
Plaintiff,  
v.  
C.O. ACEVEDO, et al.,  
Defendants.

Case No. 1:15-cv-01086-DAD-SAB  
ORDER GRANTING MOTION TO AMEND  
THE COMPLAINT  
(ECF No. 23)

On April 13, 2016, Plaintiff filed a motion for leave to file an amended complaint to substitute the “C.O. DOE, correctional officer” defendant with Correctional Officer Lopez. (ECF No. 23.) On April 22, 2016, Defendants filed a statement of non-opposition to Plaintiff’s motion for leave to amend the complaint. (ECF No. 27.) On May 12, 2016, District Judge Dale A. Drozd vacated the hearing set for May 17, 2016, and referred the motion for leave to file an amended complaint to the undersigned pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 302. (ECF No. 28.) The Court, having reviewed the record, finds this matter suitable for decision without oral argument. See Local Rule 230(g).

Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party’s pleading once as a matter of course at any time before a responsive pleading is served. Otherwise, a party may amend only by leave of the court or by written consent of the adverse party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). Rule 15(a)

1 is very liberal and leave to amend ‘shall be freely given when justice so requires.’” Amerisource  
2 Bergen Corp. v. Dialysis West, Inc., 465 F.3d 946, 951 (9th Cir. 2006) (quoting Fed. R. Civ. P.  
3 15(a)).

4 Plaintiff indicated in his motion to amend that he anticipated Defendants filing a  
5 statement of non-opposition. Since the motion is unopposed, it is unclear to the Court why the  
6 parties did not stipulate to the amendment to avoid setting a contested motion hearing. However,  
7 as Plaintiff’s motion is unopposed, the Court shall grant the motion for leave to file an amended  
8 complaint.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff’s unopposed motion to file an amended complaint is GRANTED; and
- 11 2. Plaintiff shall file his first amended complaint within ten (10) days of the date  
12 entry of this order.

13 IT IS SO ORDERED.

14 Dated: May 13, 2016

  
UNITED STATES MAGISTRATE JUDGE

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28