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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAVIER ARIAS,
Plaintiff,
v.
RUAN TRANSPORT CORPORATION,
Defendant.

Case No. 1:16-cv-00280-SAB
ORDER GRANTING MOTION TO AMEND
THE COMPLAINT
ORDER VACATING OCTOBER 26, 2016
HEARING
(ECF Nos. 13, 14)

On September 28, 2016, Plaintiff filed a motion for leave to file an amended complaint to amend the sixth cause of action for unpaid overtime. (ECF No. 13.) Plaintiff set the motion for October 26, 2016, at 10:00 a.m. before the undersigned. On October 12, 2016, Defendant filed a statement of non-opposition to Plaintiff’s motion for leave to amend the complaint. (ECF No. 14.) 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) is very liberal and leave to amend “shall be freely given when justice so requires.” Amerisource Bergen Corp. v. Dialysis West, Inc., 465 F.3d 946, 951 (9th Cir. 2006) (quoting Fed. R. Civ. P.

1 15(a)).

2 Plaintiff indicated in his motion to amend that Plaintiff's counsel had contacted
3 Defendant's counsel on numerous occasions to seek Defendant's written consent to the
4 amendment. However, Defendant ignored Plaintiff's communications and did not consent to the
5 filing of the amended complaint as of the date the motion for leave to amend the complaint was
6 filed. Since the motion is unopposed, it is unclear to the Court why Defendant did not stipulate
7 to the amendment to avoid setting a contested motion hearing. As Plaintiff's motion is
8 unopposed, the Court shall grant the motion for leave to file an amended complaint.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff's unopposed motion to file an amended complaint is GRANTED;
- 11 2. Plaintiff shall file his first amended complaint within ten (10) days of the date of
12 entry of this order; and
- 13 3. The October 26, 2016 hearing is VACATED.

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15 IT IS SO ORDERED.

16 Dated: October 13, 2016


UNITED STATES MAGISTRATE JUDGE

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