

1 The Federal Rules of Civil Procedure provide that leave to amend pleadings “shall be
2 freely given when justice so requires.” *Id.* Nevertheless, leave to amend need not be granted
3 when the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces
4 an undue delay in litigation; or (4) is futile. *See AmerisourceBergen Corp. v. Dialysist W. Inc.*,
5 465 F.3d 946, 951 (9th Cir. 2006) (citing *Bowles v. Reade*, 198 F.3d 752, 757 (9th Cir. 1999)).
6 “Prejudice to the opposing party is the most important factor.” *Jackson v. Bank of Haw.*, 902
7 F.3d 1385, 1397 (9th Cir. 1990) (citing *Zenith Radio Corp. v. Hazeltine Research Inc.*, 401 U.S.
8 321, 330–31 (1971)). “The party opposing leave to amend bears the burden of showing
9 prejudice.” *Serpa v. SBC Telecomms.*, 318 F. Supp. 2d 865, 870 (N.D. Cal. 2004) (citing *DCD*
10 *Programs, Ltd. v. Leighton*, 833 F.2d 183, 187 (9th Cir. 1987)).

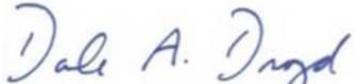
11 Here, by filing a statement of non-opposition to defendant’s motion for leave to file a first
12 amended answer, plaintiff has effectively provided defendant with his written consent. (Doc. No.
13 14.) In addition, by not opposing defendant’s motion, plaintiff essentially concedes that he is not
14 prejudiced by the court granting defendant leave to amend its answer.

15 Accordingly:

- 16 1. Defendant’s unopposed motion for leave to file a first amended answer (Doc. No. 12)
17 is granted; and
- 18 2. **The Clerk of the Court is directed to file the proposed first amended answer**
19 **(Doc. No. 12-1) on the docket captioned as the first amended answer.**

20 IT IS SO ORDERED.

21 Dated: **June 2, 2021**

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23 _____
24 UNITED STATES DISTRICT JUDGE