UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LARY FEEZOR,

Plaintiff,

v.

SARBJIT S. KANG dba KANG CHEVRON 2; KANG PROPERTY, INC.; HALEH AMIRI,

Defendants.

No. 2:09-cv-00453-MCE-GGH

MEMORANDUM AND ORDER

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Through the present action Plaintiff Lary Feezor ("Plaintiff") seeks redress for alleged violations of Title III of the Americans with Disabilities Act and related California statutes. Presently before the Court is a Motion by Plaintiff seeking leave to file a Second Amended Complaint.[1]

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[1] Because oral argument will not be of material assistance, the Court orders these matters submitted on the briefs. E.D. Cal. Local Rule 230(g).

Pursuant to Federal Rule of Civil Procedure 15(a), once a responsive pleading has been served on a Plaintiff, the Plaintiff may only amend its pleading with the opposing party's written consent or the court's leave. Fed. R. Civ. P. 15(a)(1)-(2). The court should freely give leave when justice so requires. Fed. R. Civ. P. 15(a)(2). Generally, the five factors of bad faith, undue delay, prejudice to opposing party, futility of amendment, and whether plaintiff has previously amended the complaint are considered when assessing the propriety of a motion to amend. Ahlmeyer v. Nevada Sys. of Higher Educ., 555 F.3d 1051, 1055 (9th Cir. 2009).

Here, Plaintiff seeks leave to amend so that he may add Dunnigan-Sacramento, LLC and Sacramento/Dunnigan Property, Inc. as defendants, and add to his complaint additional barriers he states he encountered at the subject facility. There is no apparent bad faith, undue delay, prejudice, or futility of amendment in Plaintiff's request. Furthermore, Defendants have not timely filed an opposition to Plaintiff's Motion to Amend.

For these reasons, Plaintiff's Motion to Amend (Docket No. 15) is hereby GRANTED.

IT IS SO ORDERED.

Dated: June 22, 2010

MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE