

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

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT KALANI,  
Plaintiff,

NO. CIV. S-12-2330 LKK/CKD

v.

O R D E R

CASTLE VILLAGE LLC,  
FUJINAKA PROPERTIES, L.P.,  
Defendants.

\_\_\_\_\_ /

Plaintiff has moved to amend his complaint to: (1) remove the second claim; and (2) allege all barriers to his access to defendant's facility, including barriers he did not personally encounter. Defendant having filed no opposition nor a Statement of Non-Opposition, and the merits of the motion being apparent from plaintiffs' papers, the court will decide the motion on the papers, without oral argument.

At this stage of the proceedings, plaintiff may amend his complaint only for "good cause" shown. Pretrial (Scheduling) Order (ECF No. 17) at 2. Plaintiff is entitled to seek the removal of all barriers related to his disability, even if he has not

1 personally encountered them, once he has alleged that he has  
2 encountered at least one such barrier. Chapman v. Pier 1 Imports  
3 (U.S.) Inc., 631 F.3d 939, 944 (9th Cir. 2011) (en banc).  
4 Plaintiff's First Amendment Complaint does allege that he  
5 personally encountered barriers (ECF No. 7).

6 Plaintiff asserts that he was unable to include allegations  
7 relating to all un-encountered barriers in his First Amended  
8 Complaint, until he had commissioned an inspection of the property,  
9 which he did promptly after the Scheduling Order was issued. This  
10 motion having been promptly filed, and well before the discovery  
11 cut-off deadline of February 14, 2014, it appears that defendant  
12 will suffer no prejudice from the addition of the allegations of  
13 un-encountered barriers, or from the removal of the second claim.

14 Accordingly, good cause appearing:


15 1. Plaintiff's motion (ECF No. 18), to amend the First  
16 Amended Complaint is **GRANTED**. Plaintiff shall file the Proposed  
17 Second Amended Complaint (ECF No. 18-3), within 10 days of the date  
18 of this order;

19 2. The Scheduling Conference Order, together with all dates  
20 set therein, is otherwise **CONFIRMED**; and

21 3. The hearing on this motion, currently scheduled for April  
22 8, 2013, is hereby **VACATED**.

23 IT IS SO ORDERED.

24 DATED: April 3, 2013.

  
LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT

26