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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MELINDA BEECH,
Plaintiff,
v.
SAN JOAQUIN COUNTY, et al.,
Defendants.

No. 2:15-cv-00268-TLN-CKD

**ORDER DENYING PLAINTIFF’S
MOTION FOR LEAVE TO AMEND**

This matter is before the Court pursuant to Plaintiff Melinda Beech’s (“Plaintiff”) renewed Motion for Leave to Amend her Complaint. (ECF No. 49.) The Court previously denied without prejudice Plaintiff’s Motion for Leave to Amend (ECF No. 41), on the ground that Federal Rule of Civil Procedure (“Rule”) 16, which governs amendment to a complaint once a court has issued a pretrial scheduling order, was not addressed in Plaintiff’s motion. (ECF No. 48.) Defendant San Joaquin County (“County”) filed an Opposition to the present Motion for Leave to Amend (ECF No. 50), and Plaintiff replied (ECF No. 51). For the reasons discussed below, the Court DENIES Plaintiff’s motion without prejudice.

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1 **I. FACTUAL AND PROCEDURAL BACKGROUND**

2 Plaintiff alleges she sustained injuries as a result of the excessive force of three Stockton
3 police officers during an arrest, and further alleges Defendants failed to thereafter treat some of
4 her claimed injuries. (ECF No. 49 ¶¶ 11–14.) Plaintiff alleges she suffered four breaks to her
5 clavicle bone during the arrest and that she reported the injuries to staff at the San Joaquin County
6 Jail, but she was not treated until after she was released. (Id. at ¶¶ 15–20.) More specifically, she
7 alleges she spoke to one Sheriff’s deputy about her broken clavicle, and that the deputy
8 acknowledged the injury but denied her treatment. (Id.) Plaintiff also alleges she suffered gouges
9 in her leg and arm from a piece of metal sticking out of the police car, but that these injuries were
10 properly treated at the time. (ECF No. 20 ¶¶ 12–13.) Plaintiff filed the present lawsuit initially
11 against the County, the City of Stockton (“City”), and unnamed “Doe” defendants 1–50. (ECF
12 No. 1 at 1.)

13 On October 18, 2015, Plaintiff moved to amend her Complaint to add the names of three
14 Stockton Police officers, stating she learned the identity of the officers during the course of
15 discovery. (ECF No. 14 at 2.) The County and then-defendant City¹ filed statements of non-
16 opposition, and the Court granted Plaintiff’s motion. (ECF Nos. 15, 16, 19.)

17 The Court later issued a pretrial scheduling order which provided in part that no joinder of
18 parties or amendments to pleadings would be permitted without leave of court for good cause.
19 (ECF No. 35 at 1.) Plaintiff objected, arguing she had not been allowed an opportunity to learn
20 the identity of the San Joaquin Sheriff’s deputy who allegedly denied her medical care in
21 violation of her constitutional rights. (ECF No. 36 at 1–2.) The Court overruled Plaintiff’s
22 objection, noting that federal courts do not recognize Doe defendants and explaining that Plaintiff
23 must move to amend for good cause if and when she learned the deputy’s identity. (ECF No. 37.)
24 The Court added that this procedure protects non-parties who had no awareness of a case that had
25 then been pending for over three years. (Id.)

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28 ¹ The City was dismissed as a defendant and effectively replaced by the specific City police officers, leaving as Defendants San Joaquin County, three named individuals from Stockton Police Department, and unnamed Does.

1 Plaintiff thereafter moved to amend her Complaint under Rule 15 to substitute several San
2 Joaquin County Sheriff's Office employees for the previously unnamed Doe defendants. (ECF
3 No. 41.) Plaintiff stated she had just identified the employees through recently provided
4 disclosures. (Id. at 1–2.) The Court denied Plaintiff's Motion to Amend without prejudice on the
5 basis that Plaintiff did not address Rule 16 in her motion. (ECF No. 48 at 4.) Since the Court had
6 issued a pretrial scheduling order, Rule 16 governed amendment to the Complaint. (Id. at 4.)

7 By way of the present motion, Plaintiff again seeks to amend her Complaint to add as
8 defendants seven San Joaquin County Sheriff's Office employees. Specifically, Plaintiff asserts
9 that she now knows the identity of the seven officers present when she was denied medical care.
10 She therefore seeks to add these named individuals and to allege that “all of the San Joaquin
11 Sheriff's Office Employees who are named as defendants were present and aware of the
12 Plaintiff's injury” and that these same Sheriff's Office employees were “present and aware” of
13 one officer's “statement made to the Plaintiff, regarding her injury.”² (ECF No. 49-1 at 4.)
14 Plaintiff still does not know, however, which of the seven officers actually spoke to her.
15 Additionally, while the allegations against the single speaking officer (as a Doe defendant) are
16 present in Plaintiff's operative First Amended Complaint, the “present and aware” allegations are
17 wholly new to the proposed Second Amended Complaint.

18 II. STANDARD OF LAW

19 Granting or denying leave to amend a complaint rests in the sound discretion of the trial
20 court. *Swanson v. United States Forest Serv.*, 87 F.3d 339, 343 (9th Cir. 1996). When a court
21 issues a pretrial scheduling order that establishes a timetable to amend the complaint, Rule 16
22 governs any amendments to the complaint. *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294
23 (9th Cir. 2000). To allow for amendment under Rule 16, a plaintiff must show good cause for not
24 having amended the complaint before the time specified in the pretrial scheduling order. *Id.* The

25 ² Plaintiff asserts in her original Complaint and in the present motion that one Doe Sheriff's deputy
26 intentionally denied Plaintiff medical care for her broken clavicle. (ECF No. 20 at 6.) Specifically, Plaintiff asserts
27 she had informed the Doe deputy on duty that she was hurting and that there was a clear separation in her clavicle
28 bone. (Id. at 4.) To this, the deputy responded, “yes, I do see that and it's swollen.” (Id.) Plaintiff then requested to
be seen by a nurse for her injury. (Id.) The deputy responded, “no we are going to be releasing you so it is against
the law to give you medical treatment or even aspirin.” (Id.) The proposed Second Amended Complaint newly
alleges the presence and awareness of six additional Sheriff's Office employees. (ECF No. 49-1.)

1 good cause standard primarily considers the diligence of the party seeking the amendment.
2 Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). “Moreover,
3 carelessness is not compatible with a finding of diligence and offers no reason for a grant of
4 relief.” Id. The focus of the inquiry is on the reasons why the moving party seeks to modify the
5 complaint. Id. If the moving party was not diligent, then good cause cannot be shown and the
6 inquiry should end. Id.

7 Even if the good cause standard is met under Rule 16(b), the Court has the discretion to
8 deny amendment under Rule 15(a). Johnson, 975 F.2d at 610. Under Rule 15(a)(2), “a party
9 may amend its pleading only with the opposing party’s written consent or the court’s leave,” and
10 the “court should freely give leave when justice so requires.” The Ninth Circuit has considered
11 five factors in determining whether leave to amend should be given: “(1) bad faith, (2) undue
12 delay, (3) prejudice to the opposing party, (4) futility of amendment; and (5) whether plaintiff has
13 previously amended his complaint.” In re W. States Wholesale Nat. Gas Antitrust Litig., 715 F.3d
14 716, 738 (9th Cir. 2013) (citing Allen v. City of Beverly Hills, 911 F.2d 367, 373 (9th Cir. 1990)).
15 “[T]he consideration of prejudice to the opposing party carries the greatest weight.” Eminence
16 Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003).

17 **III. ANALYSIS**

18 Because the proposed “present and aware” claims against the six San Joaquin County
19 Sheriff’s Office employees are new and different from the claim asserted against the single
20 Sheriff’s deputy who allegedly made statements to Plaintiff denying her medical care, the Court
21 will address these two issues separately.

22 A. Leave to Amend to Add New Allegations Against Seven San Joaquin County 23 *Sheriff’s Office* Employees

24 Plaintiff seeks to add allegations concerning the presence and awareness of seven
25 Sheriff’s Office employees to her claims of injuries and denial of medical care. (ECF No. 49-1.)
26 For the reasons stated below, the Court finds Plaintiff has not shown good cause under Rule 16(b)
27 to warrant amendment. Further, the Court finds amendment would be prejudicial to the opposing
28 party under Rule 15(a).

1 i. “Good Cause” Under Rule 16(b)

2 Plaintiff asserts she has demonstrated “good cause” to warrant modification of the pretrial
3 scheduling order under Rule 16(b), and by extension, leave to amend the pleadings. (ECF No. 49
4 at 3; ECF No. 51 at 3). Plaintiff argues that a change in circumstances or newly discovered facts
5 suffices as a basis for finding “good cause.” (ECF No. 49 at 3.) More specifically, Plaintiff
6 asserts she was diligent in moving to amend because she “met and conferred several times with
7 counsel for San Joaquin County several weeks before the Court issued the current scheduling
8 order to ascertain the identities of the deputy DOE defendants” (Id. at 4.) Plaintiff also
9 states that circumstances beyond her control and anticipation prevented compliance with the
10 scheduling order. By this, Plaintiff refers to the fact that the County did not provide its initial
11 disclosures identifying the deputies until March 30, 2018, which is after the Court issued the
12 scheduling order. (Id. at 5.) Plaintiff sought leave to amend “immediately,” “once the Plaintiff
13 was furnished with the identities of the deputies.” (Id. at 6.)

14 The Court finds that Plaintiff was reasonably diligent in her efforts to ascertain the
15 identity of the deputy who had explicitly stated to Plaintiff that she would be denied medical
16 attention. But Plaintiff seeks more than the simple addition of a single named defendant. Rather,
17 Plaintiff also seeks leave to amend the Complaint to assert wholly new claims against six
18 additional deputies who were allegedly “present and aware of Plaintiff’s injury,” “present and
19 aware of the correctional officer’s statement to the Plaintiff, regarding her injury,” and “present
20 and aware of” the fact that Plaintiff waited seven hours to be released “in severe pain without
21 being seen and or treated by any medical staff.” (ECF No. 49-1 at 4.)

22 Plaintiff has not provided any reason why the allegations against the six additional
23 deputies could not have been raised in the original Complaint, or even in the First Amended
24 Complaint. As provided above, under Rule 16, if Plaintiff was not diligent, then good cause
25 cannot be shown, and the Court’s inquiry should end. Because the proposed amendment here
26 seeks to add six deputies and introduce wholly new allegations against them, with no explanation
27 of why those allegations have been absent from every previous iteration of the complaint, the

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1 Court finds Plaintiff has failed to meet the diligence standard required to show “good cause” for
2 such an addition. Accordingly, the Court DENIES Plaintiff’s motion.

3 ii. Prejudice to opposing party under Rule 15(a)

4 Even if Plaintiff had shown good cause under Rule 16(b), the Court has the discretion to
5 refuse amendment if it finds reasons to deny leave to amend under Rule 15(a). Johnson, 975 F.2d
6 at 610. Here too, Plaintiff’s motion fails on the ground that granting leave to amend would be
7 prejudicial to the opposing party.

8 “[T]he consideration of prejudice to the opposing party carries the greatest weight” in the
9 determination of a motion for leave to amend. Eminence Capital, 316 F.3d at 1052. Plaintiff
10 asserts that “the Defendant will not be unduly prejudiced if the Plaintiff is allowed to amend”
11 because “no discovery has taken place...[no] dispositive motions have been filed, no pretrial
12 conference has taken place, and no trial date has been set.” (ECF No. 49 at 8.) But Plaintiff is
13 seeking to add seven new defendants and to assert new allegations that six of these defendants
14 were “present and aware” of the alleged underlying constitutional violation. (ECF 49-1 at 4.)
15 Such an addition would absolutely prejudice the six proposed defendants who are likely unaware
16 of this litigation. In overruling Plaintiff’s objections to the current scheduling order, the Court
17 expressed its interest in protecting “non-parties who have no awareness that this case is pending
18 from being brought into a matter already before the Court for over three years.” (ECF No. 37.)
19 Plaintiff’s proposed amendment would do just that.

20 Plaintiff contends in her reply brief that the newly added defendants received notice of the
21 pending action because the County was named at the onset of this case. (ECF No. 51 at 10.) She
22 also argues these proposed defendants knew or should have known that they would have been
23 named, but for a mistake concerning their identity, because they partook in the mistreatment of
24 Plaintiff while she was in their custody.³ (Id.) The Court, however, is not convinced that
25 sufficient notice has been given to the proposed new defendants, since the incident occurred over
26 six years ago, in July 2013, and the original case was filed over four years ago, in January 2015.
27 Again, even if their identities were unknown, Plaintiff has not provided any reason why her

28 ³ Plaintiff makes this argument in the context of a “relation back” analysis under Rule 15(c)(1)(C).

1 allegations concerning the presence of six additional deputies could not have been raised in the
2 original Complaint, or in the First Amended Complaint. Indeed, the fact that Plaintiff included
3 allegations against one unidentified speaking officer as a Doe defendant cuts against any
4 argument of due diligence with respect to these six additional unidentified deputies. In short, it is
5 too late in the game for Plaintiff to assert new facts and new theories of recovery against new
6 defendants, and so Plaintiff's motion is DENIED on this additional ground.

7 B. Leave to Amend to Add Named Defendant for Previously Unknown Doe
8 Deputy

9 The Court separately considers Plaintiff's request concerning the addition of the one
10 officer with whom Plaintiff spoke, because her allegations with respect to that single defendant
11 are not wholly new. Rather, Plaintiff asserted the same factual allegations against a Doe
12 defendant in her previous complaints. As the Court has previously noted, "Federal Courts are
13 bound by the Federal Rules of Civil Procedure, which do not recognize DOE defendants as
14 placeholders for other defendants" But however disfavored Doe defendants may be in the
15 Ninth Circuit, see *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980); *Velasquez v. Senko*,
16 643 F. Supp. 1172, 1180 (N.D. Cal. 1986), situations can arise where the identity of alleged
17 defendants will not be known prior to the filing of a complaint. *Gillespie*, 629 F.2d at 642. In
18 such circumstances, the plaintiff should be given an opportunity through discovery to identify the
19 unknown defendants, unless it is clear that discovery would not uncover the identities, or that the
20 complaint would be dismissed on other grounds. *Id.* (citing *Gordon v. Leeke*, 574 F.2d 1147,
21 1152 (4th Cir. 1978), cert. denied, 439 U.S. 970 (1978)); see *Wells Fargo & Co. v. Wells Fargo*
22 *Express Co.*, 556 F.2d 406, 430–431 n. 24 (9th Cir. 1977); see also *Oppenheimer Fund, Inc. v.*
23 *Sanders*, 437 U.S. 340, 351 n. 13 (1978).

24 Here, however, Plaintiff does not truly seek to substitute a single named officer for a Doe
25 defendant — if she were, the outcome may be different. Rather, Plaintiff still has not identified
26 who the single speaking officer is. Instead, she seeks to add all seven newly discovered
27 defendants as a group, with the understanding that one of them spoke to her. Plaintiff has had an
28 opportunity to ascertain the identity of the previously unknown Doe deputy who explicitly made

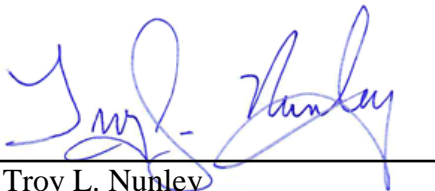
1 statements to Plaintiff denying her medical care. Yet, in the proposed Amended Complaint,
2 Plaintiff still does not identify which of the seven newly named defendants is to be substituted for
3 the Doe deputy to whom she referred in her original Complaint. The Court therefore DENIES
4 Plaintiff's present request, but does so without prejudice to Plaintiff again moving to amend her
5 complaint if and when she is able to identify the presently-unknown Doe deputy.

6 **IV. CONCLUSION**

7 For the foregoing reasons, the Court DENIES Plaintiff's Motion to Amend (ECF No. 49)
8 without prejudice.

9 **IT IS SO ORDERED.**

10 Dated: October 28, 2019

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14 Troy L. Nunley
15 United States District Judge
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