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4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 PAUL FAIRFAX SOARES,

No. C 12-05979 SI

9 Plaintiff,

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE A
SECOND AMENDED COMPLAINT**

10 v.

11 JEFFREY LORONO, *et al.*,

12 Defendants.
13 _____/

14 Currently before the Court is *pro se* plaintiff Soares's motion for leave to file a second amended
15 complaint. Pursuant to Civil Local Rule 7-1(b), the Court finds this matter suitable for disposition
16 without oral argument and therefore VACATES the hearing currently scheduled for June 21, 2013.
17 Having considered the papers of the parties, and for good cause appearing, the Court hereby GRANTS
18 plaintiff's motion.

19 Once the time for amending a complaint as a matter of course has passed, further amendments
20 may only be made with leave of the court. *See* Fed. R. Civ. P. 15(a)(2). Rule 15(a)(2) provides that
21 "[t]he court should freely give leave when justice so requires," which represents a public policy strongly
22 in favor of amendments. *See Chodos v. West Publishing Co.*, 292 F.3d 992, 1003 (9th Cir. 2002) ("It
23 is generally our policy to permit amendment with 'extreme liberality' . . ."). "When considering a
24 motion for leave to amend, a district court must consider whether the proposed amendment results from
25 undue delay, is made in bad faith, will cause prejudice to the opposing party, or is a dilatory tactic." *Id.*
26 A court may also deny leave to amend "if amendment of the complaint would be futile." *Gordon v. City*
27 *of Oakland*, 627 F.3d 1092, 1094 (9th Cir. 2010).

28 On April 15, 2013, the Court granted plaintiff's motion to file a first amended complaint, which

1 corrected numerical errors, added several new defendants, and sought to clarify allegations, but did not
2 allege any new causes of action. Plaintiff did not file or serve the first amended complaint. Instead,
3 eight days later, plaintiff moved for leave to file a second amended complaint. The second amended
4 complaint also adds several additional defendants, but no new causes of action. Additionally, although
5 Modi Systems remains a named defendant, the allegations of fraud against Modi Systems were omitted.

6 Modi Systems filed a statement of non-opposition to plaintiff's motion. Defendant Jeffery
7 Lorono filed an opposition to the motion. Lorono argues that the amendment should be denied because
8 it will prejudice the current and new defendants, because it will cause further delay in the proceedings.
9 However, this case is not even a year old and it is still in its earliest stages. Moreover, delay alone is
10 not a sufficient reason to preclude plaintiff from amending the complaint. *See Bowles v. Reade*, 198
11 F.3d 752, 758 (9th Cir. 1999). The Court finds that the motion to file a second amended complaint will
12 not cause prejudice to defendants.

13 Lorono also argues that plaintiff's motion was made in bad faith. The Court finds no evidence
14 of bad faith. In a case management statement, defendant Modi Systems stated, "Plaintiff Soares has
15 indicated he may amend his complaint The parties propose May 1, 2013 as the deadline for
16 amendments to the complaint." Docket No. 96. Thus, the amendments were anticipated by defendants,
17 and plaintiff moved to file a second amended complaint before the agreed-upon deadline. Pursuant to
18 the liberal policy permitting amendments, permitting plaintiff to file a second amended complaint would
19 be in the interest of justice.

20 For the foregoing reasons and for good cause shown, the Court GRANTS plaintiff's motion to
21 file a second amended complaint.

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23 **IT IS SO ORDERED.**

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25 Dated: June 12, 2013



26 SUSAN ILLSTON
27 United States District Judge
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