

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANJAY BHATNAGAR,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. [14-cv-00327-MEJ](#)

**ORDER RE: MOTION FOR LEAVE TO
AMEND COMPLAINT AND/OR FOR
RECONSIDERATION**

Re: Dkt. No. 48

On May 19, 2015, the Court dismissed this case, finding that Plaintiff's claims were untimely. Dkt. No. 46. Now pending before the Court is Plaintiff's Motion for Leave to Amend and/or for Reconsideration. Dkt. No. 48. Although Defendant has not had the opportunity to respond to Plaintiff's Motion, the Court notes that Federal Rule of Civil Procedure 15 provides that the Court "should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). Plaintiff's proposed Second Amended Complaint contains additional facts and evidence that address the deficiencies noted in the Court's May 19 Order. Plaintiff admits he had access to these facts when he filed the earlier complaints, but he was proceeding pro se at that time and contends he did not recognize the legal importance of the earlier efforts to submit his administrative tort claim. He also states that he did not include this evidence in opposition to the Defendant's Motion To Dismiss because, under Rule 12(b)(6), it would have been improper for the Court to consider evidence beyond the pleadings.

Without addressing the merits of Plaintiff's arguments in support of his motion, the Court makes a preliminary finding that he may be able to proceed on his claims. Thus, rather than have the parties fully brief the matter as part of a motion for reconsideration, the Court shall permit Plaintiff to file his proposed amended complaint. Accordingly, the Court hereby **REOPENS** this

1 case. Plaintiff shall file his Second Amended Complaint by June 4, 2015. Defendant shall file its
2 responsive pleading by June 25, 2015.

3 If Defendant files an answer, the Court shall conduct a Case Management Conference on
4 July 23, 2015 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco,
5 CA 94102. This conference shall be attended by lead trial counsel for parties who are represented.
6 No later than seven calendar days before the Case Management Conference, the parties shall file a
7 Joint Case Management Statement containing the information in the Standing Order for All
8 Judges in the Northern District of California, available at: <http://cand.uscourts.gov/mejorders>. The
9 Joint Case Management Statement form may be obtained at: <http://cand.uscourts.gov/civilforms>.
10 If Defendant files a motion instead of an answer, the Case Management Conference shall be
11 vacated pending resolution of Defendant's motion.

12 **IT IS SO ORDERED.**

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14 Dated: June 1, 2015

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17 MARIA-ELENA JAMES
18 United States Magistrate Judge
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