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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JULIE HINDLEY,
Plaintiff,
v.
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,
Defendants.

Case No. [15-cv-01973-MEJ](#)

**ORDER GRANTING MOTION FOR
LEAVE TO AMEND AND
SCHEDULING CASE MANAGEMENT
CONFERENCE**

Pending before the Court is Plaintiff Julie Hindley’s (“Plaintiff”) Motion for Leave to File Fifth Amended Complaint. Dkt. No. 46. Defendants have filed a “Statement of No Position.” Dkt. No. 49.

Federal Rule of Civil Procedure 15 provides that a party may amend its pleading once as a matter of course within (1) 21 days after serving the pleading or (2) 21 days after the earlier of service of a responsive pleading or service of a Rule 12(b) motion. Fed. R. Civ. P. 15(a)(1). Outside of this timeframe, “a party may amend its pleading only with the opposing party’s written consent or the court’s leave,” though the court “should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). A court considers five factors in determining whether to grant leave to amend: “(1) bad faith, (2) undue delay, (3) prejudice to the opposing party, (4) futility of amendment; and (5) whether plaintiff has previously amended his complaint.” *In re W. States Wholesale Nat. Gas Antitrust Litig.*, 715 F.3d 716, 738 (9th Cir. 2013) (quotation omitted). “Not all of the factors merit equal weight. As this circuit and others have held, it is the consideration of prejudice to the opposing party that carries the greatest weight. Prejudice is the touchstone of the inquiry under Rule 15(a).” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (citation omitted). “Absent prejudice, or a strong showing of any of the remaining []

1 factors, there exists a *presumption* under *Rule 15(a)* in favor of granting leave to amend.” *Id.* at
2 1052 (emphasis in original).

3 As Defendants have taken no position on Plaintiff’s Motion, they have not established any
4 prejudice. Further, Plaintiff’s Motion does not appear to have been brought in bad faith and is not
5 futile as the amendment does not add new causes of action. Finally, although Plaintiff has
6 previously amended her complaint, this amendment will cause no delay as there are no pending
7 deadlines. Accordingly, the Court **GRANTS** Plaintiff’s Motion. Plaintiff shall e-file the Fifth
8 Amended Complaint by April 15, 2016.

9 Pursuant to Federal Rule of Civil Procedure 16(b) and Civil Local Rule 16-10, the Court
10 shall conduct a Case Management Conference on May 5, 2016 at 10:00 a.m. in Courtroom B, 15th
11 Floor, 450 Golden Gate Avenue, San Francisco, CA 94102. This conference shall be attended by
12 lead trial counsel for parties who are represented. Parties who are proceeding without counsel
13 must appear personally. By April 28, 2016, the parties shall file a Joint Case Management
14 Statement containing the information in the Standing Order for All Judges in the Northern District
15 of California, available at: <http://cand.uscourts.gov/mejorders>. The Joint Case Management
16 Statement form may be obtained at: <http://cand.uscourts.gov/civilforms>.

17 No chambers copy is required for either document.

18 **IT IS SO ORDERED.**

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20 Dated: April 14, 2016

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23 MARIA-ELENA JAMES
24 United States Magistrate Judge
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