

United States District Court  
Northern District of California

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  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY ECONOMUS,  
Plaintiff,  
v.  
CITY AND COUNTY OF SAN  
FRANCISCO, et al.,  
Defendants.

Case No. 18-cv-01071-HSG

**ORDER GRANTING MOTION FOR  
LEAVE TO FILE SECOND AMENDED  
COMPLAINT**

Re: Dkt. No. 35

On March 15, 2018, Plaintiff Anthony Economus filed a motion for leave to file a Second Amended Complaint, in which Plaintiff includes a negligence cause of action. Dkt. No. 35. The motion is unopposed by Defendants. Dkt. No. 41. The motion is now pending before the Court.<sup>1</sup>

Under Federal Rule of Procedure 15(a)(2), “leave to amend shall be freely granted ‘when justice so requires.’” *Townsend v. Univ. of Alaska*, 543 F.3d 478, 485 (9th Cir. 2008) (quoting Fed. R. Civ. P. 15(a)(2)). “This policy is to be applied with extreme liberality.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (internal quotation marks omitted). The five factors relevant to determining proper amendment are (1) bad faith, (2) undue delay, (3) prejudice to the opposing party, (4) futility of amendment, and (5) previous amendments. *Foman v. Davis*, 371 U.S. 178, 182 (1962); see also *Wash. State Republican Party v. Wash. State Grange*, 676 F.3d 784, 797 (9th Cir. 2012) (same factors). The Court weighs prejudice to the opposing party most heavily. *Eminence Capital*, 316 F.3d at 1052 (9th Cir. 2003). “Absent prejudice, or a strong showing of any of the remaining *Foman* factors, there exists a presumption under Rule 15(a) in favor of granting leave to amend.” *Id.* (emphasis in original). As


<sup>1</sup> The Court finds this matter appropriate for disposition without oral argument and the matter is deemed submitted. See Civil L.R. 7-1(b).

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  
27  
28

the motion is unopposed, the presumption in favor of granting leave to amend applies. The Court thus **GRANTS** Plaintiff's motion. The second amended complaint must be filed by November 2, 2018.

**IT IS SO ORDERED.**

Dated: 10/26/2018

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge