

1 \*\*E-Filed 2/12/2010\*\*

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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN JOSE DIVISION**

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12 ANTOINETTE JARDINE BYRNE,

13 Plaintiff,

14 v.

15 SANTA CRUZ COUNTY AND PLANNING  
16 DEPARTMENT, et al.,

17 Defendants.

Case Number C 09-3729 JF (PVT)

ORDER<sup>1</sup> GRANTING DEFENDANTS'  
MOTION FOR LEAVE TO FILE AN  
AMENDED ANSWER

[re: document no. 16 ]

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19 Defendants seek leave to amend their answer to add additional defenses. The Court has  
20 considered the moving and responding papers as well as the argument presented at the hearing on  
21 February 12, 2010. For the reasons discussed below, the motion will be granted.

22 The request for leave to amend is governed by Federal Rule of Civil Procedure 15(a),  
23 which provides that "leave shall be freely given when justice so requires." Fed. R. Civ. P.  
24 15(a)(2). "But a district court need not grant leave to amend where the amendment: (1)  
25 prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in  
26 litigation; or (4) is futile." *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951

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28 <sup>1</sup> This disposition is not designated for publication in the official reports.

1 (9th Cir. 2006).

2 There is no prejudice to Plaintiff, as the case is in the early stages and very little discovery  
3 has been done. There is no indication in the record that Defendants are acting in bad faith. The  
4 proposed amendment will not delay the litigation, and Defendants have explained the timing of  
5 their request by submitting a declaration of counsel explaining that the potential applicability of  
6 the new defenses came to light only recently after counsel reviewed the administrative record in  
7 this case. Finally, it does not appear that the proposed new defenses are futile.

8 **ORDER**

9 Defendants' motion for leave to amend their answer is GRANTED. Defendants shall file  
10 an amended answer within twenty (20) days after the date of this order.

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15 Dated: 2/12/2010

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18 JEREMY FOGEL  
19 United States District Judge  
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1 Copies of Order served on:

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