

1  
2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA  
9

10 THOMAS MATTHEWS,  
11 Plaintiff,  
12 v.  
13 SAN DIEGO COUNTY BOARD OF  
14 SUPERVISORS, et al., CODE  
15 ENFORCEMENT AGENTS TERESA  
16 WILLIS & MICHAEL MURPHY; SAN  
17 DIEGO COUNTY TREASURE'S  
OFFICE, (all defendants sued in their  
individual and official capacity),  
18 Defendants.

Case No.: 3:18-CV-711-GPC-NLS

**ORDER RE PLAINTIFF'S MOTION**

**[ECF No. 24.]**

19  
20 On November 19, 2018, pro se Plaintiff Thomas Matthews ("Plaintiff") filed a  
21 motion with this Court (ECF No. 24) in response to the Court's scheduling order, which  
22 set the deadline for Plaintiff's response to Defendant County of San Diego's motion to  
23 dismiss (ECF No. 17) for the same date. Plaintiff's motion was to serve two purposes:  
24 first, Plaintiff conceded that his original complaint did "not state any claims for relief,"  
25 and had failed to "state any claims for damages." (ECF No. 24, at 2.) Second, in  
26 recognition of his pleading deficiencies, Plaintiff has moved the Court for leave to file a  
27 First Amended Complaint. The proposed amended complaint is attached to Plaintiff's  
28

1 motion. It names a six additional county-level government-official defendants, and  
2 asserts thirteen causes of action, including perjury, wire fraud, and malicious prosecution.

3 Federal Rule of Civil Procedure 15(a)(2) provides that leave to amend shall be  
4 freely granted “when justice so requires.” Leave may be denied for reasons such as  
5 undue delay, bad faith, futility of amendment, or prejudice to the opposing party. *Hurn v.*  
6 *Retirement Fund Trust*, 648 F.2d 1252, 1254 (9th Cir. 1981). The Court finds that none  
7 of these reasons are present in this case; accordingly, leave to amend is granted.

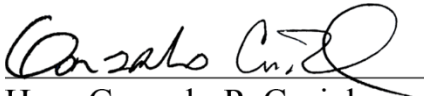
8 In turn, the Court finds that leave to amend moots the Defendant’s pending motion  
9 to dismiss (ECF No. 17) because the motion addresses the original complaint, which was  
10 limited to a prayer for a restraining order (and potentially raised a 42 U.S.C. § 1983  
11 claim). Defendants may file another motion to dismiss if they wish, but it should address  
12 the amended complaint.

### 13 CONCLUSION

14 The Court **grants** Plaintiff’s motion for leave to amend. Plaintiff is instructed to  
15 file his First Amended Complaint as a separate item to the docket, and to effect the  
16 appropriate service therefor. Defendant’s motion to dismiss (ECF No. 17) is **denied as**  
17 **moot**, and the motion hearing scheduled for that motion, on December 14, 2018, is  
18 hereby **vacated**.

19 **IT IS SO ORDERED.**

20 Dated: November 28, 2018

21   
22 Hon. Gonzalo P. Curiel  
23 United States District Judge  
24  
25  
26  
27  
28