

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02930-CMA-KLM

JOSEPH C. PADILLA,

Plaintiff,

v.

CITY AND COUNTY OF DENVER,

Defendant.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Plaintiff's Unopposed Motion for Leave to File Amended Complaint** [Docket No. 14; Filed February 15, 2010] (the "Motion").

Fed. R. Civ. P. 15(a) provides for liberal amendment of pleadings. Leave to amend is discretionary with the court. *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Viernow v. Euripides Dev. Corp.*, 157 F.3d 785, 799 (10th Cir. 1998). Amendment under the rule has been freely granted. *Castleglenn, Inc. v. Resolution Trust Company*, 984 F.2d 1571 (10th Cir. 1993) (internal citations omitted). "If the underlying facts or circumstances relied upon by a [party] may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits." *Foman*, 371 U.S. at 182. "Refusing leave to amend is generally only justified upon a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment." *Frank v. U.S. West, Inc.*, 3 F.3d 1357, 1365 (10th Cir. 1993).

Plaintiff's Motion was filed before the expiration of the deadline for the amendment

of pleadings set forth in the Scheduling Order. There is no basis for denying leave to amend. Defendant does not object to the relief requested by Plaintiff. Accordingly,

IT IS **ORDERED** that the Motion is **GRANTED**.

IT IS FURTHER **ORDERED** that the Court accepts Plaintiff's Amended Complaint and Jury Demand [Docket No. 14-2] for filing as of the date of this Order.

DATED: February 18, 2010

BY THE COURT:

s/ Kristen L. Mix
Kristen L. Mix
United States Magistrate Judge