UNITED STATES DISTRICT COURT DISTRICT OF NEVADA * * * RUSSELL DENNEWITZ, Case No. 2:14-CV-2111 JCM (VCF) Plaintiff(s), ORDER v. MANDALAY CORP., Defendant(s).

Presently before the court is plaintiff Russell Dennewitz's motion for leave to amend complaint. (Doc. # 10). Defendants Mandalay Corp., et al., have not filed a response and the deadline to do so has passed.

Also before the court is defendants' motion to dismiss. (Doc. #6). Plaintiff filed a response (doc. #9), and defendants filed a reply (doc. #11).

Federal Rule of Civil Procedure 15(a)(2) provides that "[t]he court should freely give leave [to amend] when justice so requires," and when there is no "undue delay, bad faith [,] dilatory motive on the part of the movant . . . undue prejudice to the opposing party by virtue of . . . the amendment, [or] futility." Fed.R.Civ.P. 15(a); Foman v. Davis, 371 U.S. 178, 182, 222 (1962).

Generally, leave to amend is denied only when it is clear that the deficiencies of the complaint cannot be cured by amendment. See DeSoto v. Yellow Freight Sys., Inc., 957 F.2d 655, 658 (9th Cir. 1992). As stated above, defendants have failed to file any response in opposition to plaintiff's motion for leave to amend complaint. Local Rule 7–2(d) provides that "failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." LR 7–2(d). Therefore, defendants have consented to plaintiff's motion for leave to amend.

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Because defendants' motion to dismiss (doc. # 6) is based on the allegations of the original complaint, the court will deny defendants' motion to dismiss as moot.¹ Accordingly, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion for leave to amend complaint (doc. # 10) be, and the same hereby is, GRANTED. IT IS FURTHER ORDERED that defendants' motion to dismiss (doc. # 6) be, and the same hereby is, DENIED as moot. DATED March 12, 2015. ¹ In granting plaintiff's motion to amend, the court offers no comment as to whether plaintiff's

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amended claims are sufficient to withstand dismissal or summary judgment.