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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

MICHAEL J. WELLS,

Plaintiff,

v.

LINDA McMAHON, *in her official capacity as the Administrator of the U.S. Small Business Administration,* and the NEVADA STATE DEVELOPMENT CORPORATION,

Defendants.

Case No. 3:18-cv-00297-LRH-CLB

ORDER

On April 22, 2019, the court entered its order (ECF No. 39) which dismissed plaintiff's claims against Linda McMahon, in her official capacity as the Administrator of the United States Small Business Administration, and also dismissed plaintiff's claims against the Nevada State Development Corporation. All but one claim was dismissed without prejudice, and the court stated in its order (ECF No. 39, p 15 ln 3-14) that:

In lieu of dismissing Wells' complaint against NSDC with prejudice, the Court will grant Wells leave to amend on five of his six claims. Federal Rule of Civil Procedure 15(a) allows for a court to grant a party leave to amend a complaint "when justice so requires," because the rule's underlying purpose is to facilitate decisions on the merits rather than pleadings or technicalities. *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc). Leave to amend should only be denied if allowing the amendment would unduly prejudice the opposing party, cause undue delay, be futile, or if the moving party has acted in bad faith. *Leadsinger, Inc. v. BMG Music Publ'g*, 512 F.3d 522, 532 (9th Cir. 2008). There is no reason to believe that allowing Wells to amend his complaint will prejudice NSDC, and given the fact that Wells originally filed his complaint in state court, he should be given an

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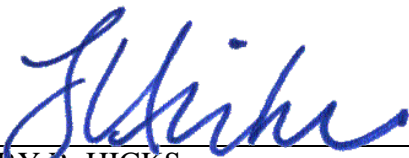
opportunity to remedy the factual deficiencies within it. The Court will, however, dismiss Wells's claim for equitable subrogation with prejudice for the reasons stated within this order.

However, almost one year later, plaintiff has not amended his complaint. And GOOD CAUSE APPEARING,

IT IS HEREBY ORDERED that the Clerk of the Court shall CLOSE this matter.

IT IS SO ORDERED.

DATED this 12th day of March, 2020.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE