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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROBERT ROYBAL,

Plaintiff,

v.

TOPPENISH SCHOOL DISTRICT and
JOHN CERNA,

Defendants.

No. 1:CV-14-3092-SMJ

**ORDER GRANTING
DEFENDANTS' MOTION FOR
LEAVE TO FILE AMENDED
ANSWER AND STRIKING
SUMMARY JUDGMENT MOTION**

11 Before the Court, without oral argument, are Defendants' Motion for Leave
12 to File Amended Answer, ECF No. 27, and Notice Striking Defendants' Motion
13 for Summary Judgment, ECF No. 26. Defendants seek to file an amended answer
14 and strike their previously-filed summary judgment motion, ECF No. 5. Having
15 reviewed the pleadings and the file in this matter, the Court is fully informed and
16 grants leave to file an amended answer and strikes the summary judgment motion.

17 Generally, Rule 15 advises the Court that "leave shall be freely given when
18 justice so requires." This policy is "to be applied with extreme liberality." *Owens*
19 *v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001) (quoting
20 *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990)).

1 In *Foman v. Davis*, 371 U.S. 178 (1962), the Supreme Court offered the following
2 factors a district court should consider in deciding whether to grant leave to
3 amend:

4 In the absence of any apparent or declared reason—such as undue
5 delay, bad faith or dilatory motive on the part of the movant, repeated
6 failure to cure deficiencies by amendments previously allowed,
7 undue prejudice to the opposing party by virtue of allowance of the
8 amendment, futility of amendment, etc.—the leave sought should, as
9 the rules require, be “freely given.”

10 *Id.* at 182. See also *Allen v. City of Beverly Hills*, 911 F.2d 367, 373 (9th Cir.
11 1990); *Hurn v. Ret. Fund Trust of the Plumbing, Heating & Piping Indus. of S.*
12 *Cal.*, 648 F.2d 1252, 1254 (9th Cir. 1981).

13 Here, Defendants sought leave to file an amended answer on October 31,
14 2014, before the Court’s November 1, 2014 deadline to amend pleadings. This is
15 Defendants first request to amend their answer, and the Court finds no reason to
16 suspect undue delay, bad faith, or dilatory motive. Accordingly, the motion is
17 granted.

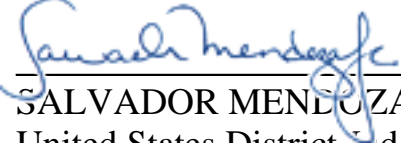
18 Accordingly, **IT IS HEREBY ORDERED:**

- 19 **1.** Defendants’ Motion for Leave to File Amended Answer, **ECF No.**
20 **27**, is **GRANTED**. Defendants shall promptly file their Amended
Answer.
- 2.** The Court **STRIKES** the December 3, 2014 Motion Hearing, and all
related deadlines, on Defendants’ Motion for Summary Judgment,

1 **ECF No. 5.** The Clerks' Office is directed to **TERMINATE** the
2 motion flag on **ECF No. 5.**

3 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
4 and provide copies to all counsel.

5 **DATED** this 5th day of November 2014.

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8 SALVADOR MENDOCZA, JR.
9 United States District Judge