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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LARRY LLOYD,

Plaintiff,

v.

BRIAN YANKEY, JOHN DOE, P.A. JOHNSON, BRUCE KALER, SUE STEVEN,

Defendants.

CASE NO. C12-5913 RJB/KLS

ORDER GRANTING MOTION TO AMEND COMPLAINT TO NAME JOHN DOE DEFENDANT

Before the Court is Plaintiff's motion for leave to amend his civil rights complaint to correctly name "John Doe" as Nurse Practitioner P. McClan. ECF No. 68. Defendants do not object to the amendment so long as the party formerly identified by the Plaintiff as Nurse Practitioner John Doe, whom he seeks to identify as "P. McClan" is considered subject to Defendants' motion for summary judgment filed on June 28, 2013 and currently noted for September 20, 2013 (ECF No. 55). ECF No. 74. Having reviewed the motion, Defendants' response, and balance of the record, the Court finds that the motion should be granted.

BACKGROUND

Plaintiff filed his 42 U.S.C. § 1983 civil rights complaint in this case on October 15, 2012. ECF No. 4. Defendants filed their answer on January 28, 2013, and a Pretrial Scheduling Order was issued by the Court on February 1, 2013. ECF Nos. 22 and 24, respectively. In his complaint, Plaintiff contends that Nurse Practitioner John Doe violated his rights to adequate

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medical treatment and care when she delayed and denied immediate medical attention of an injury to his right hand pinky finger after Plaintiff was allegedly assaulted by another inmate on July 30, 2012 at the King County Jail. ECF No. 4 at p. 7. Plaintiff further contends that Nurse Practitioner John Doe seriously delayed his medical treatment and follow-up, *i.e,* doctor visit and x-rays of his injury, without justification. *Id.*

Plaintiff contends that the identity of Nurse Practitioner John Doe was disclosed as "P. McClan" on a chart note dated July 30, 2012, which is part of Exhibit 1 attached to Karen Kaperick's Declaration submitted in support of Defendants' motion for summary judgment. ECF No. 55-1, Exhibit 1. Plaintiff submits that his claims against Nurse Practitioner P. McClan are alleged and relate back to the allegations set forth in his original complaint. ECF No. 68 at p. 3.

DISCUSSION

Federal Rule of Civil Procedure 15(a) provides that leave to amend "shall be freely given when justice so requires." In considering whether to grant or deny a motion seeking leave to amend a complaint, the court may consider whether there is bad faith, undue delay, prejudice to the opposing party, futility in the amendment, and whether plaintiff has previously amended his complaint. *See Allen v. City of Beverly Hills*, 911 F.2d 367, 373 (9th Cir.1990).

Defendants agree that the amendment proposed by Plaintiff is reasonable and concur that the nurse practitioner previously identified as "John Doe" may now be identified as "P. McClan." ECF No. 74 at pp. 4-5. However, Defendants contend that Plaintiff's allegations against P. McClan, formerly asserted against Nurse Practitioner John Doe, should be considered subject to Defendants' motion for summary judgment (ECF No. 55). *Id.* at p. 5.

Accordingly, it is **ORDERED:**

(1) Plaintiff's motion to amend (ECF No. 68) is **GRANTED.** The Clerk is directed to substitute P. McClan for Nurse Practitioner John Doe on the docket. Plaintiff's allegations against P. McClan shall be subject to Defendants' motion for summary judgment (ECF No. 55).

(2) The Clerk shall send a copy of this Order to Plaintiff and to counsel for Defendants.

DATED this 19th day of August, 2013.

Karen L. Strombom
United States Magistrate Judge