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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 THOMAS BONDURANT and MICHELLE
7 BONDURANT, husband and wife,

8 Plaintiff,

9 v.

10 CITY OF BATTLEGROUNND and the
11 BATTLEGROUNND POLICE
DEPARTMENT,

12 Defendant.

Case No. 3:15-cv-05719-KLS

ORDER GRANTING PLAINTIFFS'
MOTION TO AMEND COMPLAINT AND
DENYING ALL OTHER OUTSTANDING
MOTIONS

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16 This matter is before the Court on plaintiffs' second motion to amend their complaint to
17 include claims of defamation of character, racial discrimination, and malicious arrest.¹ On May
18 26, 2016, the Court denied plaintiff's first motion to amend their complaint because they did not
19 include a copy of their proposed amended complaint, but granted them the opportunity to re-file
20 their motion in accordance with the requirements of Local Rule LCR 15.² As plaintiffs have now
21 done so, the Court ORDERS as follows:

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23 Because plaintiffs have filed their amended complaint more than six months after
24 defendants filed their answer, they can amend their complaint "only with the opposing party's

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26 ¹ Dkt. 51.

² Dkt. 28, 35.

1 written consent or the court's leave."³ Defendants have not provided written consent, and while
2 leave should "be freely given when justice so requires," the decision to grant it is "within the trial
3 court's discretion."⁴ Because there is no indication that either the current named defendants or
4 those who have been newly named but not yet served will be prejudiced by allowing plaintiffs to
5 file their amended complaint,⁵ plaintiffs' motion to do so is GRANTED.

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7 In addition, because plaintiffs' first amended complaint has not yet been served on all of
8 the named defendants, the amended complaint contains new and additional allegations of fact,
9 and a new pretrial scheduling order – setting new discovery, dispositive motion, trial and other
10 dates – will need to be issued upon completion of service and filing of an amended answer, the
11 following motions are DENIED as moot:

- 12 • Plaintiffs' motion to extend discovery;⁶
- 13 • Plaintiffs' motion to compel interrogatories and requests for production;⁷
- 14 and
- 15 • Defendants' motion for summary judgment.⁸

16 In addition, the current pretrial scheduling order, including the current trial date,⁹ is STRICKEN
17 for the same reasons.

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19 **Plaintiffs should be aware, however, that they are responsible for effecting proper**
20 **service on all defendants who have not yet been served in this matter in accordance with**

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22 ³ Federal Rule of Civil Procedure 15a.

23 ⁴ *Klamath-Lake Pharmaceutical Assoc. v. Klamath Medical Serv. Bureau*, 701 F.2d 1276, 1292 (9th Cir. 1983); Fed.
R. Civ. P. 15(a)(2).

24 ⁵ Dkt. 39.

25 ⁶ Dkt. 37.


26 ⁷ Dkt. 50.

⁸ Dkt. 40.

⁹ Dkt. 24.

1 **the Federal Rules of Civil Procedure.**

2 DATED this 1st day of August, 2016.

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6 Karen L. Strombom
7 United States Magistrate Judge
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