

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Rev. Dr. Thomas A. Summers,)
 Rev. Dr. Robert M. Knight,)
 Rabbi Sanford T. Marcus, Rev. Dr.)
 Neal Jones, Hindu American Foundation,)
 and American-Arab Anti-Discrimination)
 Committee,)
)
 Plaintiffs,)
 v.)
)
 Marcia S. Adams, in her official capacity)
 as the Director of Motor Vehicles; Jon)
 Ozmint, in his official capacity as the)
 Director of the Department of Corrections)
 of South Carolina,)
)
 Defendants.)

C/A NO. 3:08-2265-CMC

**ORDER GRANTING
PLAINTIFFS' MOTION TO
FILE SECOND AMENDED
COMPLAINT**

This matter is before the court on Plaintiffs' motion for leave to file a second amended complaint. Defendants object to the motion. The court grants Plaintiffs' motion.

Plaintiffs' second amended complaint removes their free speech claim and adds a request for nominal damages. Accordingly, Plaintiffs amend the complaint to reflect that Defendants are sued in both their individual and official capacities.

Defendants object to Plaintiffs' second amended complaint because it would require Defendants to alter their defense strategy and the amendments, particularly the addition of the request for nominal damages, would be futile.

Federal Rule of Civil Procedure 15(a) provides that leave to amend a pleading should be "freely give[n] . . . when justice so requires." The Fourth Circuit has held "that leave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party,

there has been bad faith on the part of the moving party, or the amendment would be futile.” *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 509 (4th Cir. 1986).

The court finds that the amended complaint would not be prejudicial to Defendants, that Plaintiffs have not acted in bad faith in seeking the amended complaint, and that the amendment would not be futile. The court, therefore, grants Plaintiffs’ motion for leave to file a second amended complaint.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
February 17, 2009