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United States District Court
Central District of California

JUAN MORENO,

Plaintiff,

v.

PIH LAZEEZ INC; DOES 1–10,

Defendants.

Case No. 2:13-cv-09444-ODW(VBKx)

**ORDER STRIKING FIRST
AMENDED COMPLAINT [11]**

On June 17, 2014, the Court ordered Plaintiff Juan Moreno to show cause why he had not served Defendant Pih Lazeez within the 120-day window mandated by Federal Rule of Civil Procedure 4(m). (ECF No. 8.) Moreno responded with a proof of service indicating that he served Defendant on February 4, 2014. (ECF No. 9.) Since Defendant's answer or other response was due by February 25, 2014, the Court then ordered Moreno to show cause why he had not moved for entry of default against Defendant. (ECF No. 10.) Moreno responded by filing an amended complaint. (ECF No. 11.)

Federal Rule of Civil Procedure 15(a) governs amendments before trial. The Rule provides that a party may amend its pleading once as a matter of course either 21 days after serving it, or, 21 days after a party files a responsive pleading or Rule 12 motion. Fed. R. Civ. P. 12(a)(1)(A)–(B).

1 Here, Moreno has complied with neither prong. He filed his amended
2 complaint months after the 21-day amendment window closed following service on
3 Defendant. Second, Defendant has yet to file any responsive pleading or Rule 12
4 motion. Moreno therefore was required to obtain leave of court to amend his
5 Complaint—which he failed to do. *See* Fed. R. Civ. P. 12(a)(2).

6 The Court therefore **STRIKES** Moreno’s amended complaint. (ECF No. 11.)
7 The Court’s June 17, 2014 Order to Show Cause remains in full force and effect.

8 **IT IS SO ORDERED.**

9
10 June 18, 2014

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13 **OTIS D. WRIGHT, II**
14 **UNITED STATES DISTRICT JUDGE**