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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICHARD DEAN JOHNSON, et al.,

 Plaintiffs,

 v.

CITY OF ATWATER, et al.,

 Defendants.

Case No. 1:16-cv-01636-AWI-SAB

ORDER REQUIRING PLAINTIFFS TO
SHOW CAUSE WHY FIRST AMENDED
COMPLAINT SHOULD NOT BE
STRICKEN FROM THE RECORD

(ECF No. 12)

FIVE DAY DEADLINE

Plaintiffs Richard Johnson and Lori Johnson filed this action in the Superior Court for the County of Merced on September 20, 2016. On October 28, 2016, this action was removed by Defendants City of Atwater, Frank Pietro, Tyna Lamison, Samuel Joseph, David Walker, Don Wisdom, Robert Vargas, Dayton Snyder, Ken Lee, Fabian Velasquez, and Adolfo Morales. The removing defendants filed an answer on November 20, 2016. Defendant John Smothers filed an answer on January 25, 2017. Plaintiff filed a first amended complaint on February 28, 2017.

Rule 15 of the Federal Rules of Civil Procedure provides that

- A party may amend its pleading once as a matter of course within:
- (A) 21 days after serving it, or
 - (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.
- (2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

1 Fed. R. Civ. P. 15 (a).

2 In this instance, it has been more than twenty one days since an answer has been filed so
3 Plaintiff must either have the opposing parties written consent or leave of the court to file an
4 amended complaint. Plaintiff did not file a stipulation or a motion to amend the complaint.

5 Accordingly, IT IS HEREBY ORDERED that, within five (5) days from the date of
6 service of this order, Plaintiff shall show cause in writing why the amended complaint filed
7 February 28, 2017 should not be stricken from the record.

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9 IT IS SO ORDERED.

10 Dated: March 1, 2017


UNITED STATES MAGISTRATE JUDGE

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