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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARC ANTHONY LOWELL ENDSLEY,

Plaintiff,

No. CIV S-09-2311 WBS GGH P

vs.

STEPHEN MAYBERG, et al.,

Defendants.

ORDER

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Plaintiff, civilly committed to a state mental hospital, is proceeding in forma pauperis and seeks relief pursuant to 42 U.S.C. § 1983. Defendants have filed a “statement” asking the court if, in light of their pending motion to dismiss (Docket # 12), they should file an opposition to plaintiff’s subsequent motion for leave to file an amended complaint. As plaintiff did not file his first amended complaint within 21 days after service of the Fed. R. 12(b)(6) motion, filed on March 11, 2010, plaintiff’s proposed first amended complaint cannot be filed as of right, pursuant to Fed. R. Civ. P. 15(a)(1)(B). Defendants’ current motion to dismiss implicates only the first claim for relief in the original complaint, which contains four claims for relief. According to plaintiff, the proposed first amended complaint amends the fourth claim and adds two more as well as more defendants. Therefore, since defendants intend to oppose the filing of the amended complaint, they should not wait until the adjudication of the pending

