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IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAY L. SCHNEIDER, et al.,

Plaintiffs,

No. 2:12-cv-2457 KJM JFM

v.

ORDER

COUNTY OF SACRAMENTO, et al.,

Defendants.

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On September 27, 2012, plaintiffs filed a complaint raising two civil rights claims against the County of Sacramento, Roger Dickinson, Robert Sherry, Jeff Gamel, Cindy Storelli, Leighann Moffitt, Tammy Derby, Carl Simpson, and David Bieber. ECF No. 1.

On May 20, 2013, defendants County of Sacramento, Derby, Dickinson, Moffitt, Sherry, Simpson, and Storelli answered the complaint. ECF Nos. 28-35.

On June 5, 2013, defendant Bieber filed a motion to dismiss. ECF No. 37.

On June 26, 2013, plaintiffs filed a first amended complaint and on June 28, 2013, filed their opposition to the motion to dismiss. ECF Nos. 39, 40. In their opposition, plaintiffs say they filed the First Amended Complaint to clarify their allegations against defendant Bieber. ECF No. 40.

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1 Under Rule 15(a)(1), a party may amend a pleading once as a matter of course  
2 within twenty-one days of serving it or “if the pleading is one to which a responsive pleading is  
3 required, 21 days after service of a responsive pleading or 21 days after service of a motion  
4 under Rule 12(b), (e), or (f), whichever is earlier.” After that window has closed, a party must  
5 seek a stipulation from the opposing parties or leave of court to amend. FED. R. CIV. P. 12(a)(2).  
6 Under the rule, the twenty-one day period to amend as a matter of course begins on the date of  
7 the earliest defense action. *Trujillo v. City of Newton*, No. 12-2380-JAR-DJW, 2013 WL  
8 535747, at \*1 (D. Kan. Feb. 12, 2013); *Brown v. West Valley Env'tl. Serv. LLC.*, No. 10CV210A,  
9 2010 WL 3369604, at \*10 (W.D.N.Y. Aug. 24, 2010). In this case, the earliest defense action  
10 was the answers filed by defendants County of Sacramento, Dickinson, Sherry, Gamel, Storelli,  
11 Moffitt, Derby, and Simpson. In this case, plaintiffs could file an amended complaint without  
12 seeking leave of court no later than June 11, 2013. The First Amended Complaint, filed June 26,  
13 2013, is hereby stricken.

14 IT IS SO ORDERED.

15 DATED: July 10, 2013.

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17 UNITED STATES DISTRICT JUDGE  
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