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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAGHVENDRA SINGH,  
Plaintiff,  
v.  
UNITED STATES OF AMERICA,  
Defendant.

No. 2:13-cv-780-TLN-EFB PS

ORDER

On August 29, 2014, the government filed a motion to dismiss plaintiff’s first amended complaint for failure to state a claim pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(6) and for lack of jurisdiction pursuant to Rule 12(b)(1).<sup>1</sup> ECF No. 44. That motion was before the court for hearing on October 1, 2014, and is currently under submission.

On September 18, 2014, plaintiff filed a second amended complaint. The complaint was not filed in compliance with Federal Rule of Civil Procedure 15(a). A plaintiff may amend the complaint once as a matter of course within 21 days of the service of a defendant’s answer or Rule 12(b).<sup>2</sup> Plaintiff has already amended his complaint as a matter of course, and he filed his


<sup>1</sup> This case, in which plaintiff is proceeding pro se, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). See 28 U.S.C. § 636(b)(1).

<sup>2</sup> Federal Rule of Civil Procedure 15(a)(1) 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

1 second amend complaint without either a stipulation or leave of the court. The court will address  
2 that proposed amended complaint in the findings and recommendation on the motion currently  
3 under submission.

4 Accordingly, it is hereby ordered that the October 29, 2014 hearing on defendant's motion  
5 to dismiss is vacated.

6 DATED: October 22, 2014.

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8 EDMUND F. BRENNAN  
9 UNITED STATES MAGISTRATE JUDGE  
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27 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Rule  
28 15(a)(2) provides that “[i]n all other cases, a party may amend its pleading only with the opposing  
party’s written consent or the court’s leave.”