

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RODERICK WILLIAM LEAR,  
  
Plaintiff,  
  
v.  
  
D. AVILA, et al.,  
  
Defendants.

No. 2:17-cv-0326-JAM-EFB P


ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. ECF No. 1. He has filed a motion to amend his complaint. ECF No. 28.

Rule 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 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” On December 4, 2017, defendants filed an answer and a Rule 12(f) motion to strike. ECF Nos. 29, 30. Thus, plaintiff may amend his complaint “once as a matter of course,” without leave of the court, within 21 days after December 4, 2017.

Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion to amend (ECF No. 28) is denied as unnecessary. Plaintiff may file an amended complaint on or before December 26, 2017, the next business day following the Christmas holiday. See Fed. R. Civ. P. 6(a)(1)(C).

DATED: December 7, 2017.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE