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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

EARLY MORNING, INC.,

Plaintiff,

v.

ELIUD MORENO, et al.,

Defendants.

No. 2:17-cv-02150-MCE-AC

**ORDER**

On October 23, 2017, Defendants filed a Motion to Dismiss (ECF No. 4) Plaintiff's operative Complaint (ECF No. 1), noticing it for hearing on December 14, 2017. Rather than file an opposition, Plaintiff untimely filed a putative First Amended Complaint ("FAC") without complying with the strictures of Federal Rule of Civil Procedure 15(a). As a result, this Court, on December 12, 2017, issued an Order to Show Cause ("OSC") requiring Plaintiff to advise the Court in writing not later than Friday, December 22, 2017, as to why that FAC should not be STRICKEN. Plaintiff failed to respond to the OSC, and the FAC (ECF No. 7) is now consequently STRICKEN.

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Given Plaintiff's failure to file either an opposition or statement of non-opposition to Defendants' Motion in violation of Eastern District of California Local Rule 230(c) or to comply with this Court's OSC, the Court hereby orders Plaintiff to show cause in writing not later than January 12, 2018, why this action should not be DISMISSED for failure to prosecute or to comply with the applicable rules and orders of the Court. See Fed. R. Civ. P. Failure to respond to timely respond to this Order will result in dismissal of this action with prejudice upon no further notice to the parties.

IT IS SO ORDERED.

Dated: January 3, 2018

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE