

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

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

ROGER GIFFORD,  
Plaintiff,  
v.  
PETER KAMPA, et al.,  
Defendants.

No. 2:17-CV-2421-TLN-DMC

ORDER

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the court is plaintiff’s motion (Doc. 9) seeking an extension of time and leave to amend.

Plaintiff seeks additional time to comply with the court’s February 11, 2019, order to submit documents necessary for service of process to the United States Marshal. Plaintiff also seeks additional time to inform the court regarding his election to proceed for all purposes before a United States Magistrate Judge. The docket reflects plaintiff has submitted service documents to the United States Marshal and informed the court regarding consent to proceed before a Magistrate Judge. Plaintiff’s requests for additional time are, therefore, moot and will be denied as such.

///  
///  
///

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

Plaintiff also seeks leave to file a first amended complaint. The Federal Rules of Civil Procedure provide that a party may amend his or her pleading once as a matter of course within 21 days of serving the pleading or, if the pleading is one to which a responsive pleading is required, within 21 days after service of the responsive pleading, see Fed. R. Civ. P. 15(a)(1)(A), or within 21 days after service of a motion under Rule 12(b), (e), or (f) of the rules, whichever time is earlier, see Fed. R. Civ. P. 15(a)(1)(B). Because no responsive pleading has been served or filed, leave of court is not required. Plaintiff's request for leave to amend will be denied as unnecessary.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion (Doc. 9) is denied.

Dated: March 26, 2019



DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE