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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PETER STROJNIK, SR.,  
Plaintiff,  
v.  
CAPITOL REGENCY, LLC, et al.,  
Defendants.

No. 2:19-cv-01587-MCE-KJN PS  
ORDER  
(ECF No. 25)

Presently before the court is plaintiff’s motion to amend his complaint. (ECF No. 25.) The motion was not properly noticed for hearing under this court’s local rules, see L.R. 230, but given the procedural posture of the case, no motion is actually required for plaintiff to amend the complaint at this juncture. The pretrial scheduling order in this case contemplated amendment of the pleadings and permitted plaintiff to move to amend by December 31, 2020. (ECF No. 20 at 2.) In keeping with this deadline, plaintiff filed the instant motion to amend on December 22, 2020. (ECF No. 25.) This was exactly 20 days after the (then only) defendant, Capitol Regency, LLC, had filed its answer to the original complaint on December 2, 2020.<sup>1</sup> (ECF No. 23.)

Under Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure, “a party may amend its pleading once as a matter of course” within 21 days of service of a responsive pleading, such as

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<sup>1</sup> Defendant originally filed an unsigned answer on November 30, 2020, which the clerk’s office rejected. (ECF No. 21.)

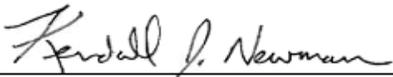
1 an answer. As plaintiff's motion was filed—along with a copy of plaintiff's proposed amended  
2 complaint—within 21 days of defendant Capitol Regency's answer, and plaintiff has not  
3 previously amended his complaint, the instant amendment is allowed “as a matter of course” and  
4 requires no leave of court.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Plaintiff's motion to amend (ECF No. 25) is DENIED as moot;
- 7 2. The Clerk of Court is directed to:
  - 8 a. file pages 39-69 of plaintiff's motion (ECF No. 25 at 39-69) as plaintiff's First  
9 Amended Complaint,
  - 10 b. add as an additional defendant in this case “Hyatt Hotels Corporation, doing  
11 business as Hyatt Hotels & Resorts”; and
  - 12 c. issue a summons for such additional defendant; and
- 13 3. Upon the Clerk's filing of the First Amended Complaint, plaintiff shall timely  
14 effect service of the First Amended Complaint upon all defendants in accordance  
15 with Federal Rules of Civil Procedure 4 and 5.

16 IT IS SO ORDERED.

17 Dated: January 8, 2021

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20 KENDALL J. NEWMAN  
21 UNITED STATES MAGISTRATE JUDGE

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