

1 UNITED STATES DISTRICT COURT  
2 Northern District of California

3  
4 BERNARDO MENDIA

No. C 10-03910 MEJ

5 Plaintiff(s),

**ORDER DENYING AS MOOT  
DEFENDANT'S MOTION TO  
DISMISS**

6 v.

7 JOHN M. GARCIA

8 Defendant(s).  
\_\_\_\_\_ /

9  
10 Pending before the Court is Defendants' Motion to Dismiss. (Dkt. #20.) However, on July  
11 27, 2011, Plaintiff filed a request to amend his complaint. (Dkt. #25.) Under Federal Rule of Civil  
12 Procedure 15, a party may amend its pleading once "as a matter of course" within "21 days after  
13 service of a responsive pleading or 21 days after service of a motion. Fed. R. Civ. P. 15(a)(1). Here,  
14 more than 21 days have passed since Defendants filed their motion; however, the Court recognizes  
15 that Plaintiff is representing himself in this matter, and this is still a relatively new case. Thus, as no  
16 prior amended complaints have been filed, the Court shall permit Plaintiff to file an amended  
17 complaint under Rule 15(a). Plaintiff shall file the amended complaint by August 11, 2011. Since  
18 Defendants' motion is based on Plaintiff's original complaint, Defendants' motion is now moot.  
19 Accordingly, the Court hereby DENIES Defendants' motion as moot. Defendants shall file an  
20 answer or other responsive pleading within 20 days from the date Plaintiff files his amended  
21 complaint.

22 The July 27, 2011 Order to Show Cause is DISCHARGED.

23 **IT IS SO ORDERED.**

24  
25 Dated: July 29, 2011

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27 \_\_\_\_\_  
28 Maria-Elena James  
Chief United States Magistrate Judge