

United States District Court
For the Northern District of California

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****E-filed 1/5/12****

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CARLOS MASSEY,

No. C 11-4222 RS

Plaintiff,

**ORDER RE MOTION TO DISMISS
AND TO STRIKE**

v.

CITY OF SAN MATEO, et al,

Defendants.

Defendants move to dismiss and strike the complaint herein. Although plaintiff filed no timely response to the motion, he has now exercised his one-time right to amend the complaint without leave of Court. Without opining as to whether or not the amended complaint addresses all of the purported defects identified in defendants' motion, the revisions appear to be significant enough that it would not be practicable to deem the existing motion as applying to it. Accordingly, the motion is denied, without prejudice to defendant's right to reassert any arguments contained therein to the extent they may be equally applicable to the amended complaint. The hearing set for January 19, 2012 is vacated.

IT IS SO ORDERED.

Dated: 1/5/12


RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE