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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAJAN VAN DUSEN,  
Plaintiff,  
v.  
CITY OF OAKLAND, et al.,  
Defendants.

Case No. 13-cv-05023-HSG

**ORDER GRANTING MOTIONS TO  
STRIKE THIRD AMENDED  
COMPLAINT**

Re: Dkt. Nos. 213, 214, 219, 235, 240

**INTRODUCTION**

On October 24, 2014, the Court dismissed Plaintiff's First Amended Complaint ("FAC") and permitted her "one final opportunity" to amend the complaint. See Docket No. 160. On November 14, 2014, pursuant to the Court's October 24, 2014 Order, Plaintiff filed her Second Amended Complaint ("SAC"). See Docket No. 162. On January 30, 2015, without leave of Court and without consent from Defendants, Plaintiff filed her Third Amended Complaint ("TAC"). See Docket No. 206. On February 13, 18, 19, and 20, 2015, Defendants filed various motions to strike the TAC. See Docket Nos. 213, 214, 219, 235, & 240. The Court finds these motions are appropriate for determination without oral argument. See Civil L.R. 7-1(b). For the reasons set forth below, Defendants' motions to strike the TAC are GRANTED.

**DISCUSSION**

A party may amend her complaint once as a matter of course. Fed. R. Civ. P. 15(a)(1). At all times thereafter, amendment of the complaint may only occur with leave of court or the opposing party's written consent. Fed. R. Civ. P. 15(a)(2). An amended complaint filed in violation of Rule 15—that is, without leave of court or consent of defendants—is "without legal effect." *Murray v. Archambo*, 132 F.3d 609, 612 (10th Cir. 1998). Pursuant to Rule 12(f), courts


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may strike amended pleadings that fail to comply with the requirements of Rule 15. *Sapiro v. Encompass Ins.*, 221 F.R.D. 513, 517 (N.D. Cal. 2004).

Plaintiff did not seek leave of court to file the TAC, nor did Defendants consent to the filing of the TAC. See Black Decl. ¶ 7. Because the TAC was filed in violation of Rule 15, it is without legal effect. The SAC remains the operative complaint. The issue of leave to amend the SAC will be addressed when the Court rules on the pending motions to dismiss and strike the SAC. Defendants' motions to strike the TAC are hereby GRANTED.

**IT IS SO ORDERED.**

Dated: February 24, 2015

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge