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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

LAMOS WAYNE STURGIS,

No. C 08-05363 SBA (PR)

Plaintiff,

v.

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE AN
AMENDED COMPLAINT**OFFICER ROBERT BRADY, CITY OF SAN
PABLO POLICE DEPARTMENT, et al.,Defendants.

Before the Court is Plaintiff's request for leave to file an amended complaint.

A plaintiff may amend his complaint once as a matter of course at any time before a responsive pleading is served. See Fed. R. Civ. P. 15(a). Where a plaintiff seeks to amend after a responsive pleading has already been served, however, the decision whether to grant leave to amend is committed to the sound discretion of the trial court. Waits v. Weller, 653 F.2d 1288, 1290 (9th Cir. 1981). Federal Rule of Civil Procedure 15(a) is to be applied liberally in favor of amendments and, in general, leave shall be freely given when justice so requires. Janicki Logging Co. v. Mateer, 42 F.3d 561, 566 (9th Cir. 1994).

The Court notes that the defendants in this action have not been served at this time. Plaintiff may as a matter of course amend his complaint because a responsive pleading has not yet been served. See Fed. R. Civ. P. 15(a). Accordingly, Plaintiff's motion for leave to file an amended complaint is GRANTED.

The Clerk of the Court is directed to file the document attached to Plaintiff's motion, which is labeled "Complaint Under the Civil Rights Act, Title 42 U.S.C. § 1983," and docket the aforementioned document as Plaintiff's "First Amended Complaint." The Clerk is further directed to mark the First Amended Complaint as filed on February 11, 2009, the date it was received by the Court. The Court will review Plaintiff's First Amended Complaint in a separate written Order.

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This Order terminates Docket no. 4.

IT IS SO ORDERED.

DATED: 2/20/09


SAUNDRA BROWN ARMSTRONG
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LAMOS WAYNE STURGIS,
Plaintiff,

Case Number: CV08-05363 SBA

CERTIFICATE OF SERVICE

v.

CITY OF SAN PABLO POLICE
DEPARTMENT et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 20, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Lamos Wayne Sturgis F-28185
Contra Costa County Detention Facility
901 Court Street
Martinez, CA 94553

Dated: February 20, 2009

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk