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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GWENDOLYN SMITH,

No. C 12-01732 DMR

Plaintiff(s),

**ORDER STRIKING FIRST AMENDED
COMPLAINT**

v.

PAUL PAYNE,

Defendant(s).

Plaintiffs Gwendolyn Smith and Zeus Harrison Smith filed their Complaint on April 6, 2012. [Docket No. 1.] Defendants Paul Payne and Halifax California, LLC dba The Press Democrat filed their answer on September 17, 2012. [Docket No. 28.] On November 1, 2012, Plaintiffs filed their First Amended Complaint. [Docket No. 44.] Pursuant to Federal Rule of Civil Procedure 15, “[a] party may amend its pleading once as a matter of course within (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading” Fed. R. Civ. P. 15(a)(1). Once this 21-day period has passed, as is the case here, “a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). There is no indication that Plaintiffs obtained Defendants’ consent, nor did the court grant Plaintiffs leave to file a First Amended Complaint. Accordingly, the court hereby STRIKES Plaintiffs’ First Amended Complaint.

IT IS SO ORDERED.

Dated: November 7, 2012

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
IT IS SO ORDERED
Donna M. Ryu
DONNA M. RYU
United States Magistrate Judge
Judge Donna M. Ryu

United States District Court
For the Northern District of California