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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ST. PAUL FIRE AND MARINE  
INSURANCE COMPANY,

Plaintiff,

No. C 13-2047 PJH

v.

**ORDER**

AMERICAN SAFETY INDEMNITY  
COMPANY, et al.,

Defendants.

\_\_\_\_\_ /

Plaintiff St. Paul Fire and Marine Insurance Company filed this action on May 2, 2013, against 14 defendants. Plaintiff has filed proofs of service of the summons and complaint as to ten of those defendants. On June 4, 2013, two of the defendants filed answers to the complaint. On June 12, 2013, a third defendant filed an answer. On June 14 and 19, 2013, respectively, two defendants filed motions to dismiss. A number of other defendants have entered into stipulations with plaintiff extending the time to respond.

On July 8, 2013, plaintiff filed a first amended complaint (FAC). Under Federal Rule of Civil Procedure 15, “[a] party may amend its pleading once as a matter of course” within 21 days after serving it, or, “if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. Rule Civ. P. 15(a)(1). “In all other cases, 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).

**United States District Court**  
For the Northern District of California

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Here, three of the defendants filed answers, and one of the defendants filed a Rule 12(b) motion to dismiss, more than 21 days prior to the date plaintiff filed the FAC. Accordingly, plaintiff was not entitled to file an amended complaint on July 8, 2013 “as a matter of course,” but rather, was required to first obtain either the agreement of all defendants, or leave of court. For this reasons, the FAC is ordered STRICKEN.

**IT IS SO ORDERED.**

Dated: July 8, 2013



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PHYLLIS J. HAMILTON  
United States District Judge