

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL L. WAGNER,

Plaintiff,

v.

**STACEY CRYER, in her Official Capacity as
Director, County of Mendocino County;
HEALTH AND HUMAN SERVICES,
unknown Named Director of County of San
Francisco,**

Defendants.

Case No.: 13-CV-5167 YGR


**ORDER DENYING SECOND MOTION FOR
LEAVE TO AMEND**

On February 28, 2014, pro se plaintiff Michael L. Wagner filed a Second Motion for Leave to Amend his complaint. (Dkt. No. 19.) The motion is **DENIED** as unnecessary. Under Federal Rule of Civil Procedure 15(a)(1)(A), Plaintiff may amend his pleading "once as a matter of course within . . . 21 days after serving it[.]" Here, the Court ordered the United States Marshals to effect service of Plaintiff's pleadings, as Plaintiff is proceeding in forma pauperis. (Dkt. No. 17.) The Court entered that Order on March 3, 2014. (*Id.*) No proof of service has yet been docketed. Accordingly, the 21-day period allotted by Rule 15 has yet to elapse. Because Plaintiff may file his amended complaint without filing a motion or otherwise seeking leave of the Court anytime before the 21-day period elapses, and the 21-day period has not elapsed, Plaintiff's motion seeking leave is superfluous and **DENIED**.

This Order terminates Docket Number 19.

IT IS SO ORDERED.

Date: March 6, 2014


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE