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3 UNITED STATES DISTRICT COURT  
4 NORTHERN DISTRICT OF CALIFORNIA

5 EDWARD LAWRENCE,

6 Plaintiff,

No. C 14-1272 PJH

7 v.

**ORDER RE AMENDED COMPLAINT**

8 WELLS FARGO BANK, N.A.,

9 Defendant.  
10 \_\_\_\_\_/

11 Defendant in the above-captioned case filed a motion to dismiss on March 26, 2014,  
12 and served the motion upon plaintiff's counsel on the same day. Plaintiff did not file an  
13 opposition to the motion, and instead filed an amended complaint on April 18, 2014. The  
14 amended complaint was filed two days later than was permitted under Federal Rule of Civil  
15 Procedure 15(a)(1), and thus, was improperly filed. However, it would be a waste of the  
16 court's and the parties' resources to go forward with a hearing on the motion to dismiss the  
17 original complaint. Accordingly, the court suggests that defendant withdraw its motion to  
18 dismiss the original complaint, as it is likely that, even if the motion were to be granted,  
19 plaintiff would be given leave to amend his complaint anyway. If defendant does withdraw  
20 its motion to dismiss the original complaint, and later moves to dismiss the amended  
21 complaint, the court will evaluate the amended complaint as a pleading that has been  
22 amended once already.

23 Defendant shall either withdraw the motion to dismiss the original complaint or  
24 advise the court that it wishes to go forward with the hearing no later than **May 1, 2014**.

25 **IT IS SO ORDERED.**

26 Dated: April 25, 2014

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PHYLLIS J. HAMILTON  
United States District Judge