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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LAMONT CARL CHAPPELL,
Plaintiff,
v.
APPLE COMPUTER INCORPORATED,
Defendant.

Case No. 16-CV-03101-LHK

**ORDER DENYING DEFENDANT’S
MOTION TO DISMISS AS MOOT**

Re: Dkt. No. 12

On July 1, 2016, Defendant Apple Computer Inc. (“Defendant”) moved to dismiss Plaintiff LaMont Carl Chappell’s (“Plaintiff”) complaint. ECF No. 12. In response, on July 22, 2016, Plaintiff filed a First Amended Complaint. ECF No. 20.

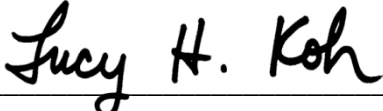
Plaintiff may amend the complaint once without a Court order within “21 days after service of a motion under Rule 12(b).” Fed. R. Civ. P. 15(a)(1)(B). Defendant served a motion to dismiss under Rule 12(b) by mail on July 1, 2016. ECF No. 13. Because service was made by mail, the deadline for Plaintiff to amend the complaint is extended by “3 days . . . after the period would otherwise expire.” Fed. R. Civ. P. 6(d). Accordingly, Plaintiff had 24 days from July 1, 2016, or until July 25, 2016, to amend the pleadings in response to Defendant’s motion to dismiss. Plaintiff filed the First Amended Complaint on July 22, 2016. ECF No. 20. In light of the timely

1 First Amended Complaint, the Court DENIES AS MOOT Defendant's motion to dismiss
2 Plaintiff's original complaint. *See Lasher v. City of Santa Clara*, 2011 WL 1560662, at *2 (N.D.
3 Cal. Apr. 25, 2011) (denying motion to dismiss as moot after amended complaint was filed). The
4 Court also VACATES the hearing on Defendant's motion to dismiss scheduled for September 8,
5 2016, at 1:30 p.m.

6 Because Plaintiff is acting pro se, the Court REFERS Plaintiff to the Federal Pro Se
7 Program. The Federal Pro Se Program provides free legal advice to pro se individuals.
8 Appointments may be made with the Federal Pro Se Program by calling (408) 297-1480, or by
9 stopping by Room 2070 at the San Jose Courthouse, 280 South First Street, San Jose, CA 95113.
10 More information is available at <http://www.cand.uscourts.gov/helpcentersj>.

11 **IT IS SO ORDERED.**

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13 Dated: July 24, 2016

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15 _____
16 LUCY H. KOH
17 United States District Judge