

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

ALFRED E. BRANDON, JR.

CIVIL ACTION

VERSUS

No. 13-818

KENNER SELF STORAGE, LLC ET AL.

SECTION I

ORDER

Pro se plaintiff, Alfred E. Brandon, Jr., has filed a motion¹ to amend his complaint. Defendants oppose the motion, but they cite cases premised on Federal Rule of Civil Procedure 15(a)(2), which applies to plaintiffs who seek leave to amend their complaints after the time period described in Rule 15(a)(1) has passed.² Plaintiff's motion to amend is presumably filed pursuant to Rule 15(a)(1) because the time period for that subsection had not expired when he filed his motion.³ *See* Wright, Miller & Kane, 6 Fed. Prac. & Proc. Civ. § 1482 (3d ed.) (“[I]n most cases, a party who makes a motion to amend before the period for amendment as of course has expired does so inadvertently and treating the amendment as if it had been made under Rule 15(a)(1) avoids penalizing the pleader for not understanding the rule.”). Rule 15(a)(1) provides for amendment “as a matter of course” and it does not require leave of Court.

Accordingly,

IT IS ORDERED that plaintiff's motion to amend is **GRANTED**.


¹R. Doc. No. 26.

²*E.g.*, R. Doc. No. 20, at 3.

³Rule 15(a)(1)(B) permits amendment “as a matter of course . . . 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.” Plaintiff filed his motion to amend on July 2, 2013, exactly 21 days after the first Rule 12(b) motion was filed. *See* R. Doc. No. 13; R. Doc. No. 16.

IT IS FURTHER ORDRED that the pending motions⁴ to dismiss are **DISMISSED WITHOUT PREJUDICE** to defendants' right to re-urge their motions relative to plaintiff's amended complaint.

New Orleans, Louisiana, August 8, 2013.



LANCE M. AFRICK
UNITED STATES DISTRICT JUDGE

⁴R. Doc. No. 13; R. Doc. No. 14.