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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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12 Eve Oro Gutte<sup>1</sup>, )  
 )  
13 Plaintiff, )  
 )  
14 vs. )  
 )  
15 Antonio Chavez Hernandez, )  
 )  
16 Defendant. )  
\_\_\_\_\_ )

No. CIV 04-1179 PCT RCB  
O R D E R

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Currently pending before the court is motion by plaintiff *pro se* Eve Oro Gutte requesting that this court "re-open" this case because her "civil rights have been adversely affected." Mot. (doc. 21) at 1. On April 27, 2005, this court ordered that plaintiff had until November 14, 2005, at the latest, to file a second amended complaint. Doc. 16 at 3.<sup>2</sup> This court "further ordered that failure to comply [there]with . . . may

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<sup>1</sup> When she commenced this action, plaintiff referred to herself as "Eve Oro Gutte." Since then plaintiff has used several variations of that name, including different spellings of her first name. For the sake of uniformity, the court will continue to refer to plaintiff as Eve Oro Gutte.

<sup>2</sup> A copy of that order is attached hereto for ease of reference.

1 result in the dismissal of Plaintiff's Complaint without  
2 prejudice." Id. Lastly, the court ordered the Clerk of the  
3 Court to provide plaintiff with a copy of "'Filing a  
4 Complaint In Your Own Behalf[, ]'" and according to the docket  
5 sheet, that was done. Id.

6 Nearly two and a half years later, when plaintiff failed  
7 to comply with that earlier order, on September 13, 2007, in  
8 a one sentence order, this court directed the Clerk of the  
9 Court to dismiss this present action without prejudice. Doc.  
10 18. That same date, judgment was entered dismissing the  
11 "complaint and action without prejudice." Doc. 19. The  
12 docket sheet in this action indicates that on September 13,  
13 2007, copies of that prior order and judgment were mailed to  
14 plaintiff Gutte at the address provided at her last known  
15 address. Quite recently, on March 18, 2010, the Clerk's  
16 Office again mailed plaintiff Gutte copies of this order and  
17 judgment at the address provided on this pending motion.

18 There are many reasons for denying the pending motion to  
19 "re-open." The court will briefly list the three most  
20 glaring reasons. First, there is no case to "re-open" as this  
21 case was dismissed without prejudice, as noted above, and  
22 plaintiff never filed a second amended complaint as the court  
23 required. Second, as the court explained in its April 27,  
24 2005 order that complaint did not allege a statutory basis  
25 for this court's jurisdiction. In other words, plaintiff did  
26 not rely upon any statute authorizing this court to consider  
27 her case. Third, even without these deficiencies, there is  
28 no basis for plaintiff's motion to "re-open" this case

1 because the six named defendants on this motion were not  
2 among the numerous defendants in the original complaint.  
3 Re-opening the present case is simply not a form of relief  
4 which is available to plaintiff Eve Oro Gutte.

5 Accordingly,

6 IT IS ORDERED that the "Motion to Reopen Case" by Eve Oro  
7 Gutte is DENIED.

8 Dates this 24<sup>th</sup> day of March, 2010

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Robert C. Broomfield  
Senior United States District Judge

Copies to plaintiff *pro se* and counsel of record