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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 JOHN W WILLIAMS,

12 Plaintiff,

13 v.

14 J WOODFORD, et. al.,

15 Defendants.  
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Case No.: 1:06-cv-01535 AWI DLB (PC)

ORDER DIRECTING CLERK OF COURT  
TO RETURN SECOND AMENDED  
COMPLAINT WITHOUT FILING

18 Plaintiff is a state prisoner proceeding pro se with a civil rights action. This action is  
19 proceeding on Plaintiff's first amended complaint filed on April 21, 2008 against defendant Vasquez  
20 ("Defendant") for violation of the First Amendment. (Docs. 22, 23, 30). On April 16, 2009,  
21 Plaintiff submitted a second amended complaint. Defendant has not yet appeared in this action.

22 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's  
23 pleading once as a matter of course at any time before a responsive pleading is served. Otherwise, a  
24 party may amend only by leave of the court or by written consent of the opposing party, and leave  
25 shall be freely given when justice so requires. Fed. R. Civ. P. 15(a).

26 In this case, plaintiff had previously amended his complaint. Therefore, plaintiff may not file  
27 a second amended complaint without leave of the court or consent of the opposing parties. Plaintiff  
28 has not sought - and has not been granted - leave to file a second amended complaint and therefore

1 the Court of the Clerk is HEREBY DIRECTED to return the second amended complaint to plaintiff  
2 by mail, without filing.

3 Plaintiff is not foreclosed from amending his first amended complaint; however, Plaintiff  
4 must comply with the federal rules. Further, once Defendant has appeared and filed an answer to the  
5 first amended complaint, the court will issue a Discovery Order and Scheduling Order, which  
6 includes a deadline for filing amended pleadings.

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8 IT IS SO ORDERED.

9 Dated: April 22, 2009

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE

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