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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Jaime L. Zepeda,	)	No. CV 1:07-0982-SMM
Plaintiff,	)	<b>ORDER</b>
vs.	)	
Harold Tate, et al.,	)	
Defendants.	)	

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Before the Court is Plaintiff’s “Ex Parte Notice of Motion and Motion for: Relief from Order Due to Mistake and/or Inadvert[e]nce” (Doc. 25).

Federal Rule of Civil Procedure 15 entitles a party to amend its pleading “once as a matter of course” within 21 days after service, or “if the pleading is one to which a responsive pleading is required, 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.” Fed. R. Civ. P. 15(a)(1)(A)-(B). Further amendment is permissible “only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2).

Plaintiff filed his First Amended Complaint (Doc. 10) in August 2009. Regardless of when in October 2010 Plaintiff filed his Second Amended Complaint (Doc. 18), it was filed without leave from the Court or Defendant’s permission. Plaintiff violated Rule 15 by failing to secure the Court’s leave or Defendant’s permission before filing his Second Amended Complaint.

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**IT IS ORDERED** that Plaintiff’s “Ex Parte Notice of Motion and Motion for: Relief from Order Due to Mistake and/or Inadvert[e]nce” (Doc. 25) is **DENIED**. Plaintiff must comply with Federal Rule of Civil Procedure 15(a) to amend his complaint.

DATED this 9<sup>th</sup> day of December, 2010.



Stephen M. McNamee  
United States District Judge