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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ROCKY MEL CONTRERAS,	)	1:09cv0087 OWW DLB
	)	
	)	
Plaintiff,	)	ORDER DISREGARDING
	)	MOTION TO AMEND
	)	(Document 11)
v.	)	
	)	ORDER DENYING MOTION TO
ERNIE MORENO, et al.,	)	SUBMIT EVIDENCE
	)	(Document 10)
	)	
Defendants.	)	

Plaintiff Rocky Mel Contreras (“Plaintiff”), appearing pro se and proceeding in forma pauperis, filed this action on January 14, 2009. The Court dismissed the complaint with leave to amend on January 20, 2009. Plaintiff’s amended complaint is due on February 23, 2009.

On January 26, 2009, Plaintiff filed a motion to amend. In it, Plaintiff appears to expand on the factual basis underlying his claims and add new causes of action. It is unclear whether this is Plaintiff’s amended complaint filed pursuant to the Court’s January 20, 2009, order, or whether this is a motion to amend the complaint that has been dismissed. The Court will not assume that the motion is Plaintiff’s amended complaint. Plaintiff’s amended complaint must be clearly labeled as such and be written in light of the Court’s January 20, 2009, order. To the extent that Plaintiff is attempting to amend the original complaint, that complaint has been dismissed. Accordingly, Plaintiff’s motion to amend is DISREGARDED.

1 On January 27, 2009, Plaintiff filed a “Motion to Submit Witness Testimony in  
2 Accordance to Rule 1007.” He attaches the declaration of Barbara Anne Wilbourn. This case is  
3 not yet in the discovery or motion practice stage, nor is the Court ready to rule on evidentiary  
4 issues given that there is no operative complaint. The submission of evidence is therefore  
5 premature and the motion is DENIED. Plaintiff may include facts from Ms. Wilbourn’s  
6 declaration in his amended complaint if they are relevant to his causes of action and will assist  
7 the Court in analyzing his claims.

8 Plaintiff is reminded that at this stage of the proceeding, the Court is only concerned with  
9 whether Plaintiff’s complaint states a valid cause of action. 28 U.S.C. 1915(e)(2).

10  
11 IT IS SO ORDERED.

12 **Dated: February 2, 2009**

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE