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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

WILSON GORRELL,)	Case No.: 1:12-cv-0554 - JLT
)	
Plaintiff,)	ORDER STRIKING PLAINTIFF’S FIRST
)	AMENDED COMPLAINT
v.)	
)	(Doc. 34)
THOMAS SNEATH, et al.,)	
)	
Defendants.)	
)	
)	

Plaintiff Wilson Gorrell (“Plaintiff”) filed a First Amended Complaint on February 11, 2013. (Doc. 34). Pursuant to Fed. R. Civ. P. 15(a), a party may amend a pleading once as a matter of course within 21 days of service, or if the pleading is one to which a response is required, twenty-one days after service of a responsive pleading. “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2).

In this case, Defendants filed an answer to Plaintiff’s Second Amended Complaint on August 6, 2012. (Doc. 18). Thus, Plaintiff must obtain Defendant’s consent to file an amended complaint, or seek leave of the Court. *See* Fed. R. Civ. P. 15(a)(2). In the scheduling order, the Court explained any requested pleading amendments must be made “either through a stipulation or motion to amend.” (Doc. 32 at 2). Nevertheless, Plaintiff has not filed a stipulation indicating Defendants consent to the pleading amendment, and has not filed a motion for the Court’s consideration with his First Amended

1 Complaint. Further, Defendants filed objections to the document on February 20, 2013, clearly
2 indicating they do not consent to have Plaintiff amend the complaint. (Doc. 35).

3 Moreover, the document Plaintiff has filed entitled "First Amended Complaint," clearly, is not
4 a complaint. It contains information he wishes to include in his complaint and two exhibits which are
5 the curriculum vitae of an expert and Plaintiff's initial disclosures. Thus, the Court cannot determine
6 exactly what new matter Plaintiff would include in an amended complaint nor does it have any
7 explanation for why Plaintiff failed to include this material in his original complaint.

8 Because Plaintiff failed to comply with the Federal Rules of Civil Procedure and did not seek
9 leave of the Court or obtain Defendants' consent to amend the complaint, his First Amended
10 Complaint filed February 11, 2013 (Doc. 34) is **STRICKEN**.

11
12 IT IS SO ORDERED.

13 Dated: February 22, 2013

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE