



1 amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay  
2 in the litigation; or (4) is futile.” AmerisourceBergen Corp., 465 F.3d at 951. Additionally, the  
3 “court’s discretion to deny leave to amend is particularly broad where the court has already given the  
4 plaintiff an opportunity to amend his complaint.” Fidelity Financial Corp. v. Federal Home Loan  
5 Bank of San Francisco, 792 F.2d 1432, 1438 (9th Cir. 1986). There is no abuse of discretion “in  
6 denying a motion to amend where the movant presents no new facts but only new theories and  
7 provides no satisfactory explanation for his failure to fully develop his contentions originally.” Bonin  
8 v. Calderon, 59 F.3d 815, 845 (9th Cir. 1995); see also Allen v. City of Beverly Hills, 911 F.2d 367,  
9 374 (9th Cir. 1990).

10 In this instance, Plaintiff merely submitted a third amended complaint and did not request  
11 leave to amend. Because no leave of Court was granted, the Clerk lodged rather than filed the  
12 proposed third amended complaint. Plaintiff has neither filed a motion for leave to amend the  
13 complaint nor has he been granted leave by the Court to file an amended complaint. Although the  
14 scheduling order set a deadline for amendment as February 4, 2017, this did not grant Plaintiff  
15 automatic leave to file an amended complaint. Accordingly, Plaintiff’s third amended complaint  
16 lodged by the Court on January 5, 2017, shall be returned to Plaintiff.

17  
18 IT IS SO ORDERED.

19 Dated: January 11, 2017

  
20 UNITED STATES MAGISTRATE JUDGE