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

ANDREW L. CARVER

Plaintiff,

v.

JAMES RATHLESBERGER; RON
JOSEPH; DAVE THORNTON; and DOES
3 through 50, inclusive,

Defendants.

CIV-S-04-1918 DFL PAN

MEMORANDUM OF OPINION
AND ORDER

Plaintiff Andrew L. Carver ("Carver") moves for a new trial. Because there was no trial in this case, the court construes Carver's motion as a motion for relief from judgment and a request to amend his complaint to plead diversity jurisdiction. For the reasons stated at oral argument, the court GRANTS Carver's request to amend his complaint to plead diversity jurisdiction. Carver shall file an amended complaint by February 24, 2006 that expressly pleads diversity jurisdiction, including the residence of plaintiff and defendants as well as how the

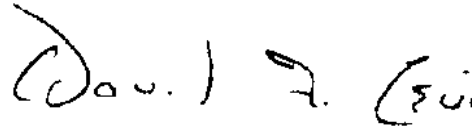
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1 amount in controversy requirement is met.

2 IT IS SO ORDERED.

3 Dated:2/6/2006

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5 Handwritten signature of David F. Levi in black ink, written over a horizontal line.

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7 DAVID F. LEVI
8 United States District Judge
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