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

MELVIN DE VAN DANIEL,

Plaintiff,

No. 2:08-cv-0682 WBS JFM (PS)

vs.

B. PADILLA, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff proceeds in this action on an amended complaint filed June 6, 2008. On October 20, 2009, plaintiff filed a motion to amend, which was denied by the undersigned on November 9, 2009 for failure to file a copy of his amended complaint. On November 18, 2009, plaintiff filed an amended complaint but did not file a motion to amend.

Once an answer has been filed, a party may amend a pleading only by leave of court or by written consent of the adverse party. See Fed. R. Civ. P. 15(a). The procedure for amending a complaint are set forth in Local Rule 137(c). An answer was filed on January 23, 2009. Plaintiff has filed neither a motion to amend nor a stipulation to amend the complaint signed by all parties. Plaintiff's amended complaint will therefore be stricken, and this action will proceed on the amended complaint filed June 6, 2008.

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Accordingly, IT IS HEREBY ORDERED that plaintiff's November 18, 2009  
amended complaint is stricken.  
DATED: March 3, 2010.

  
UNITED STATES MAGISTRATE JUDGE

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