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

BOB PERRY,

No. CIV S-10-2200-JAM-CMK

Plaintiff,

vs.

ORDER

CHASE BANK, N.A.,

Defendant.

_____ /

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the court is plaintiff's motion (Doc. 18) for leave to file an amended complaint.

The Federal Rules of Civil Procedure provide that a party may amend his or her pleading once as a matter of course within 21 days of serving the pleading or, if the pleading is one to which a responsive pleading is required, within 21 days after service of the responsive pleading, see Fed. R. Civ. P. 15(a)(1)(A), or within 21 days after service of a motion under Rule 12(b), (e), or (f) of the rules, whichever time is earlier, see Fed. R. Civ. P. 15(a)(1)(B). In all other situations, a party's pleadings may only be amended upon leave of court or stipulation of all the parties. See Fed. R. Civ. P. 15(a)(2). In this case, while a Rule 12(b) motion is pending, leave of court is not necessary to amend because 21 days have not passed since the Rule 12(b) motion

1 was served. Plaintiff may file an amended complaint once as of right within 21 days of the date
2 of service of defendant's Rule 12(b) motion.

3 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion (Doc. 18) for
4 leave to amend is denied as unnecessary.

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6 DATED: October 22, 2010

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8 **CRAIG M. KELLISON**
9 UNITED STATES MAGISTRATE JUDGE
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