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

ROBERT CHRISTOPHER JIMENEZ,

Plaintiff,

No. 2:10-cv-2943 KJN P

vs.

J. WHITEFIELD, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff, a state prisoner, is proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By an order filed November 9, 2010, this court ordered plaintiff to complete and return to the court, within thirty days, the USM-285 forms and copies of his March 22, 2010 amended complaint which are required to effect service on the defendants. On December 1, 2010, plaintiff submitted the USM-285 forms but failed to file eight, identical copies of the endorsed amended complaint filed on March 22, 2010. Plaintiff will be granted an extension of time in which to provide these documents.

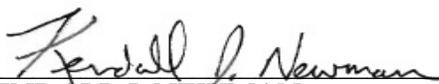
On November 12, 2010, plaintiff filed a 39 page document entitled “Amend Complaint.” (Dkt. No. 16.) The Federal Rules of Civil Procedure provide that a party may amend his or her pleading “once as a matter of course at any time before a responsive pleading is served.” Fed. R. Civ. P. 15(a). Plaintiff previously amended his complaint on March 22, 2010.

1 Therefore, plaintiff must seek leave of court if he wishes to amend his complaint again. Id.  
2 Furthermore, plaintiff's action has been pending for over a year. Plaintiff filed his original  
3 complaint on November 17, 2009, in the Northern District of California. Plaintiff's March 22,  
4 2010 seven-page amended complaint is short and plain as required under Rule 8(a)(2) of the  
5 Federal Rules of Civil Procedure. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). If  
6 plaintiff seeks leave to amend, he must explain the reason for his delay, as well as why he  
7 believes an amendment is necessary. Plaintiff is advised that he is not required to submit  
8 exhibits with his complaint; exhibits are required in connection with dispositive motions and at  
9 trial. Moreover, plaintiff has already separately filed exhibits (dkt. nos. 6 & 11). (See Dkt. No.  
10 15.) In addition, plaintiff is cautioned that seeking leave to amend his complaint may delay  
11 service of process of this action. Because plaintiff did not seek leave of court prior to submitting  
12 his second proposed amended complaint, his November 12, 2010 filing will be disregarded.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The Clerk of the Court is directed to send plaintiff a copy of the amended  
15 complaint filed March 22, 2010 (Dkt. No. 9);
- 16 2. Within thirty days, plaintiff shall submit to the court eight copies of the  
17 endorsed amended complaint required to effect service. Each copy must be an exact duplicate of  
18 the eight page amended complaint filed March 22, 2010. Failure to return the copies within the  
19 specified time period will result in a recommendation that this action be dismissed.
- 20 3. Plaintiff's November 12, 2010 filing (dkt. no. 16) is disregarded.

21 DATED: December 7, 2010

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24 KENDALL J. NEWMAN  
25 UNITED STATES MAGISTRATE JUDGE

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Plaintiff,

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vs.

J. WHITEFIELD, et al.,

Defendants.

NOTICE OF SUBMISSION

OF DOCUMENTS

\_\_\_\_\_/\_\_\_\_\_  
Plaintiff hereby submits the following documents in compliance with the court's  
order filed \_\_\_\_\_.

\_\_\_\_\_ copies of the \_\_\_\_\_  
March 22, 2010 Amended Complaint

DATED:

\_\_\_\_\_  
Plaintiff