

1 August 2, 2010 order reviewing the amended complaint, determined the amended complaint
2 suffered from the same pleading deficiencies as the original complaint, as well as other
3 problems.

4 In particular, the Court concluded that the amended complaint, which raised claims
5 against twenty-six defendants for events that occurred over a four-year period, was subject to
6 dismissal because: (1) contrary to the pleading requirements of Rule 8, plaintiff had alleged
7 so many facts pertaining to so many different events and defendants that the Court was
8 unable to determine whether the amended complaint stated cognizable claims for relief
9 against the named defendants; (2) the amended complaint did not meet the requirement of
10 Rule 8(d), as the allegations in the amended complaint were not “simple, concise, and
11 direct”; and (3) the amended complaint did not meet the requirements of Rules 18(a) and
12 20(a), as the amended complaint was replete with improperly joined claims and defendants.
13 (Docket No. 23 at 2:16-4:1.)

14 Having explained in detail to plaintiff the infirmities of his amended complaint, the
15 Court granted plaintiff one further opportunity to file an amended complaint that would cure
16 the noted pleading deficiencies. He was granted thirty days to do so, and was expressly
17 informed as follows: “If plaintiff fails to timely file an amended complaint in conformity
18 with this order, the complaint will be dismissed without prejudice and the case will be
19 closed.” (Id. at 4:27-28.)

20 Plaintiff did not file an amended complaint. Rather, on September 3, 2010, the
21 thirtieth day after the Court’s order of dismissal with leave to amend was filed, plaintiff sent
22 to the Court an eleven-page request for an additional sixty days to file an amended complaint.
23 In support of his request, plaintiff asserts that he did not have access to his legal property
24 from May 10 to June 25, 2010; that by July 18 and August 20, 2010, respectively, he was
25 required to file a notice of appeal in a civil rights action he brought in the Central District and
26 opposition to a motion to dismiss in a civil rights action he is prosecuting in this district,
27 DeJohnette v. Hubbard, No. C 08-4844 MMC (PR); and that he was only able to gain
28 sporadic access to the law library in July and August 2010, which caused him to be unable to

1 research matters necessary to filing his amended complaint.

2 Plaintiff's request will be denied, as the asserted reasons for an extension of time are
3 not persuasive. In particular, plaintiff's notice of appeal in his Central District case was due
4 more than two weeks before the start of the thirty-day extension granted in the instant action
5 and, consequently, has no bearing thereon. Further, plaintiff has failed to show why he could
6 not file both his opposition in Case No. C 08-4844 and his amended complaint herein within
7 the time allowed; plaintiff had been given over nine months to file such opposition and, in
8 any event, had two weeks thereafter in which to amend his pleading in the instant action
9 without other filing obligations, which amendment essentially required plaintiff to edit the
10 factual underpinnings of his claims, rather than to engage in legal research. Moreover, the
11 instant action was filed approximately twenty-two months ago, plaintiff has been afforded
12 more than a year to file an amended complaint that meets the requirements of the Federal
13 Rules of Civil Procedure, of which more than seven months are attributable to his most
14 recent pleading, and the Court has twice explained in detail to plaintiff what he must do in
15 order to avoid dismissal. Lastly, plaintiff's ability to file the instant eleven-page request for
16 an extension of time, which request recites in detail the facts on which plaintiff relies to
17 support his contention that he could not timely file an amended complaint, reflects plaintiff's
18 choice to file the instant motion rather than comply with the Court's order to file an amended
19 complaint.

20 Accordingly, plaintiff's request for an extension of time to file an amended complaint
21 is hereby DENIED, and the instant action is hereby DISMISSED without prejudice to
22 plaintiff's filing, in a new and separate action, a complaint that meets the pleading
23 requirements of the Federal Rules of Civil Procedure.

24 This order terminates Docket Nos. 24 and 25.

25 IT IS SO ORDERED.

26 DATED: October 19, 2010

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MAXINE M. CHESNEY
28 United States District Judge