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4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA

6 SERGIO ALVAREZ,

No. C 07-01678 SBA (PR)

7 Plaintiff,

8 v.

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE A
SUPPLEMENTAL COMPLAINT**

9 ROBERT A. HOREL, et al.,

(Docket no. 7)

10 Defendants.
11 _____/

12 Before the Court is Plaintiff's request for leave to file a supplemental complaint "adding
13 several parties and supplemental events having 'some relationship' to the claims in the original
14 complaint." (Mot. for Leave to Am. at 1.)

15 A plaintiff may amend his complaint once as a matter of course at any time before a
16 responsive pleading is served. See Fed. R. Civ. P. 15(a). Where a plaintiff seeks to amend after a
17 responsive pleading has already been served, however, the decision whether to grant leave to amend
18 is committed to the sound discretion of the trial court. Waits v. Weller, 653 F.2d 1288, 1290 (9th
19 Cir. 1981). Federal Rule of Civil Procedure 15(a) is to be applied liberally in favor of amendments
20 and, in general, leave shall be freely given when justice so requires. Janicki Logging Co. v. Mateer,
21 42 F.3d 561, 566 (9th Cir. 1994).

22 The Court notes that the defendants in this action have not been served at this time. Plaintiff
23 may as a matter of course amend his complaint because a responsive pleading has not yet been
24 served. See Fed. R. Civ. P. 15(a). Accordingly, Plaintiff's motion for leave to file a supplemental
25 complaint is GRANTED.

26 The Clerk of the Court is directed to file the document attached to Plaintiff's motion, which is
27 labeled "Proposed Supplemental Complaint for Violations Under 42 U.S.C. § 1983," and docket the
28 aforementioned document as Plaintiff's "Supplemental Complaint." The Clerk is further directed to

1 mark the Supplemental Complaint as filed on May 19, 2008, the date it was received by the Court.
2 The Court will review Plaintiff's original and supplemental complaints in a separate written Order.

3 This Order terminates Docket no. 7.

4 IT IS SO ORDERED.

5 DATED: 2/20/09


SAUNDRA BROWN ARMSTRONG
United States District Judge

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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 SERGIO ALVAREZ,
5 Plaintiff,

Case Number: CV07-01678 SBA

CERTIFICATE OF SERVICE

6 v.

7 ROBERT A. HOREL et al,
8 Defendant.

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
10 Court, Northern District of California.

11 That on February 23, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
14 located in the Clerk's office.

15 Sergio Alvarez K42605
16 Pelican Bay State Prison
17 P.O. Box 7500
18 Crescent City, CA 95532-7500

19 Dated: February 23, 2009

20 Richard W. Wiekling, Clerk
21 By: LISA R CLARK, Deputy Clerk
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