

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

JOSE ARZUAGA

v.

CASE NO. 3:10CV1200 (DJS) (TPS)

ANGEL QUIROS, ET AL.

ORDER

The plaintiff seeks leave to amend his Complaint to "clarify and sufficiently allege" his claims. The Federal Rules of Civil Procedure provide that plaintiff may amend a complaint once as of right "within (A) 21 days after serving [the complaint] [] or (B)" . . . within "21 days after service of a responsive pleading or 21 days after service of a motion" to dismiss, for more definite statement or to strike, "whichever is earlier." Rule 15(a)(1), Fed. R. Civ. P. The defendants filed their Answer on June 28, 2011. Thus, the plaintiff may only file an amended complaint with the defendants' consent or the court's permission. See Fed. R. Civ. P. 15(a)(2) ("In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.").

The motion to amend is not accompanied by a proposed amended complaint.<sup>1</sup> Thus, the court cannot determine whether justice

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<sup>1</sup> Although the plaintiff asserts in the instant motion that he previously filed a motion to amend, with a proposed amended complaint attached, in November 2011, there is no record of either of these documents having been filed with, or received by, the Court.

requires the court to permit the plaintiff to file an amended complaint at this stage of the litigation. The motion to amend is denied without prejudice. The plaintiff may renew his motion accompanied by a proposed amended complaint.

**Dated at Hartford, Connecticut this 16<sup>th</sup> day of May, 2012.**

**/s/ Thomas P. Smith**  
**THOMAS P. SMITH**  
**UNITED STATES MAGISTRATE JUDGE**