

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIREKevin Perrier

v.

Civil No. 12-cv-22-JL

Paul Binette**O R D E R**

Yesterday's order (document no. 10) is vacated based on an obvious scrivener's error. The plaintiff's motion to amend complaint (document no. 3) is GRANTED without prejudice to the defendants' futility or sufficiency arguments if asserted in a more appropriate procedural posture. While the defendants' substantive arguments may or may not have merit, they are incorrect on the procedural law pertaining to amendments as a matter of course under [Rule 15\(a\)](#). The district court has no discretion to reject an amended pleading filed before a responsive pleading is served, even if the court considers the amendment futile. [Taite v. Peake](#), No. 08-cv-258-SM, 2009 WL 94526, \*1 (D.N.H. Jan. 9, 2009) (quoting 3 [Moore's Fed. Practice](#), §§ 15.10-.11 (3d ed. 2008)).

**SO ORDERED.**  
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Joseph N. Laplante  
United States District Judge

Dated: April 18, 2012

cc: Kevin Buchholz, Esq.  
Margaret A. O'Brien, Esq.  
Mark T. Broth, Esq.