

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**STATE OF NEW MEXICO ex rel KENNETH GOMEZ,**

Plaintiffs,

vs.

1:10-cv-594 JAP/LFG

**ELEVENTH JUDICIAL DISTRICT COURT,**

Defendant.

**MOTION FOR ORDER PERMITTING AMENDING PRIOR PLEADINGS  
AS THE NEED ARISES AND AS DEFENDANT HAS DONE  
ABSENT COURT AUTHORITY TO DO SO.**

Plaintiffs hereby move the Court for an order permitting them to revise, alter, remove or amend their prior pleadings without further motions under Court rules. As grounds therefor and briefly with case citations in support thereof, Plaintiffs state:

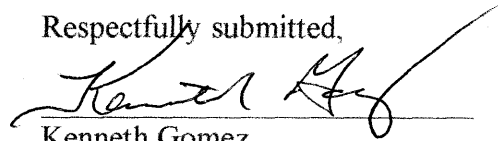
- (a) Rule 7(b) limits motions practice in the Court, usually in writing, to seek an order. *U.S. ex rel. Atkins v. McInteer*, 470 F.3d 1350, 1361 (11th Cir. 2006); *In re Vogel Van and Storage, Inc.*, 59 F.3d 9, 12 (2d Cir. 1995).
- (b) Defendant submitted a Notice of Withdrawal of Reply in support of Removal [Docket No. 20] without seeking Court authority under Rule 7(b) and then submitted an Amended Reply in Support of Removal, Docket No. 21, also without Court authority.
- (c) To insure fairness and objectivity of the Court, Plaintiffs seek an order under Rule 7(b) permitting them to revise, alter, remove or amend their prior pleadings as has been done by the Defendants.
- (d) Furthermore, it would be nice if the Court provided such an order and granted Plaintiffs authority to do so without prior notice to the Defendant as was done by them in the instant

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Opposing attorney opposes the motion 7-16-2010.

**WHEREFORE**, Plaintiffs pray the Court will grant them the same type privileges and immunities to the due process of law and the equal protection of the laws as was afforded by the Court Clerk to the Defendants.

Respectfully submitted,



Kenneth Gomez

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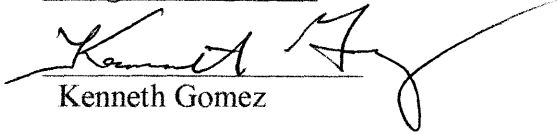
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I hereby certify that on this 16<sup>th</sup> day of July 2010, the foregoing was electronically served through the CM/ECF system to the following:

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Kenneth Gomez