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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIE LEE CARPENTER,

Plaintiff,

vs.

1: 07 CV 00114 AWI YNP SMS (PC)

ORDER DIRECTING DEFENDANTS TO  
RESPOND TO FIRST AMENDED COMPLAINT

W. J. SULLIVAN, et al.,

Defendants.

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action on January 22, 2007. On September 17, 2008, Plaintiff filed a first amended complaint. On November 17, 2008, an order issued, finding that the original complaint stated a claim as to Defendants Gonzalez, Barajas, Ortiz, Pfeil, Sullivan, Evans and Carrasco. Plaintiff returned the USM 285 forms for service of process and the court ordered service of the original complaint.

On January 6, 2009, Plaintiff filed a motion for leave to file an amended complaint.<sup>1</sup> On February 10, 2009, Defendants filed an answer to the original complaint. On February 11, 2009, Plaintiff was directed to inform the court whether he intended to file a second amended

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<sup>1</sup> An answer was filed by Defendants A. Pfeil, J. Gonzales, J. Barajas and M. Ortiz. The court notes that Defendants Sullivan, Evans and Carrasco filed waivers of personal service on March 19, 2009, April 13, 2009, and February 27, 2009. These Defendants have not entered an appearance, and no motion pursuant to Federal Rule of Civil Procedure 5 has been filed by Plaintiff.

1 complaint or proceed on the September 17, 2008, first amended complaint. On February 27,  
2 2009, Plaintiff advised the court that he intends to proceed on the September 17, 2008, first  
3 amended complaint.

4 The court has screened the September 17, 2008, first amended complaint, and finds that,  
5 as to the defendants that have answered the original complaint, the first amended complaint  
6 states a claim for relief. Specifically, the first amended complaint states a claim for relief as to  
7 Defendants Gonzalez, Barrajas and Ortiz for excessive force on June 6, 2004. The first amended  
8 complaint states a claim against Defendant Pfeil for excessive force on January 20, 2005 and  
9 Defendants Sullivan, Evans and Carrasco for failure to protect. The first amended complaint  
10 also states a claim against Defendant Litton for excessive force on January 20, 2005 and  
11 Defendants A. Salazar, J. Martinez for failure to protect on June 6, 2004. Plaintiff will be  
12 directed to complete and return to the court forms for service of process upon these defendants by  
13 separate order.

14 Accordingly, IT IS HEREBY ORDERED that Defendants A. Pfeil, J. Gonzales, J.  
15 Barajas and M. Ortiz shall file a response to the September 17, 2008, first amended complaint  
16 within thirty days of the date of service of this order. Upon filing an answer, a discovery and  
17 scheduling order will issue, setting a schedule for further litigation.

18  
19 IT IS SO ORDERED.

20 **Dated:** April 12, 2010

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE