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2 IN THE UNITED STATES DISTRICT COURT  
3 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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7 BRETT ALEXANDER HALE,

8 Plaintiff,

1: 08 CV 0489 LJO WMW PC

9 vs.

ORDER RE MOTION (DOC 9)

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11  
12 FELIX IBGINOSA, et al.,

13 Defendants.  
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15 This is a civil rights action brought by Plaintiff against defendant correctional officials for  
16 inadequate medical care. Specifically, Plaintiff claims that his medical care is such that it violate  
17 the Eighth Amendment to the U.S. Constitution. Pending before the court is Plaintiff's motion to  
18 consolidate this case with case number 1:06-CV-01497 LJO GSA PC.

19 In his motion to consolidate, Plaintiff concedes that this case, filed in state court and  
20 removed to this court, is similar to the earlier case. Plaintiff concedes that he filed this action in  
21 state court in an attempt at speedier resolution. Plaintiff indicates that the earlier case challenged  
22 the treatment of Plaintiff's intestinal conditions. This case, in addition to the allegations included  
23 in the earlier case, includes allegations of treatment regarding a torn tendon in Plaintiff's  
24 shoulder.

25 Because Plaintiff concedes that the claims regarding his intestinal condition are those  
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1 contained in the earlier complaint, the motion is denied as to those claims. Plaintiff seeks to  
2 litigate both claims in the same action, as it is more convenient. Plaintiff may not change the  
3 nature of this suit by adding new, unrelated claims in his amended complaint. George v. Smith,  
4 507 F.3d 605, 607 (7th Cir. 2007) (no “buckshot” complaints). Plaintiff is advise that if the  
5 claims regarding his tendon arose out of the same events, he should seek leave to amend his  
6 complaint in the earlier action. If the claim arose out of a separate event or set of events, the  
7 claims regarding his tendon are properly brought in this case. The court can not discern from the  
8 complaint in this action specific dates that the events at issue occurred. Should Plaintiff  
9 successfully amend his complaint in the earlier action, the court will recommend dismissal of this  
10 action as duplicative of the earlier action. Otherwise, this action will proceed only as to the  
11 claims regarding the treatment of Plaintiff’s tendon.

12 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motion to consolidate this  
13 action with case number 1:06-CV-1497 LJO GSA PC is denied. The Clerk’s Office is directed  
14 to file a copy of this order in case number 1:06-CV-1497 LJO GSA PC.

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16 IT IS SO ORDERED.

17 **Dated: February 11, 2009**

**/s/ William M. Wunderlich**  
**UNITED STATES MAGISTRATE JUDGE**