

1 In the present motion for reconsideration, Plaintiff contends that he stated a cognizable claim
2 of deliberate indifference and state law negligence. As stated in the Court's January 7, 2014, Findings
3 and Recommendation, Plaintiff fails to state a cognizable claim of deliberate indifference. However,
4 based on the allegations presented in the First Amended Complaint and Plaintiff's alleged compliance
5 with the California Tort Claims Act, the Court finds that Plaintiff states a cognizable claim for state-
6 law based tort claim of negligence against Defendants Bautista, Blaylock, James, Rupp, and
7 Hackworth, in addition to a claim of deliberate indifference to Plaintiff's safety against Defendants
8 Bautista and Blaylock. Because Defendants James, Rupp, and Hackworth were not named as
9 Defendants in the Court's January 7, 2014, service order, the Court will hereby forward the necessary
10 service of process documents to Plaintiff for these Defendants to complete and return to the Court for
11 initiation of service of process.

12 Based on the foregoing,

13 IT IS HEREBY ORDERED that:

- 14 1. Plaintiff's motion for reconsideration is **GRANTED in part** and **DENIED in part**;
- 15 2. The Court's April 1, 2014, order dismissing Defendants S.L. Rupp, B. Hackworth, and L.
16 James and Plaintiff's state law claim of negligence is **VACATED**;
- 17 3. Service shall be initiated on the following defendants:

18 **S.L. Rupp**

19 **B. Hackworth**

20 **L. James**

- 21 4. The Clerk of the Court shall send Plaintiff three (3) USM-285 forms, three (3) summons, a
22 Notice of Submission of Documents form, an instruction sheet and a copy of the First
23 Amended Complaint filed August 14, 2013;
- 24 5. Within thirty (30) days from the date of this order, Plaintiff shall complete the attached
25 Notice of Submission of Documents and submit the completed Notice to the Court with the
26 following documents:
 - 27 a. One completed summons for each defendant listed above;
 - 28 b. One completed USM-285 form for each defendant listed above;

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- c. Three (3) copies of the endorsed First Amended Complaint filed August 14, 2013; and
- d. All CDCR Form 602 documentation submitted in relation to this case;
- 6. Plaintiff need not attempt service on the defendants and need not request waiver of service. Upon receipt of the above-described documents, the Court will direct the United States Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs; and
- 7. The failure to comply with this order will result in dismissal of this action.

IT IS SO ORDERED.

Dated: July 15, 2014

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE