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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

HOMER EARL HAWKINS,	)	1:14-cv-00009-AWI-BAM (PC)
	)	
Plaintiff,	)	ORDER DIRECTING PLAINTIFF TO FILE
	)	NOTICE CLARIFYING HIS INTENT
v.	)	
	)	(ECF Nos. 12, 13, 14)
S. IBARRA, et al.,	)	
	)	FOURTEEN-DAY DEADLINE
Defendants.	)	
	)	
	)	

Plaintiff Homer Earl Hawkins (“Plaintiff”) is a state prisoner proceeding in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on December 14, 2012, in the Fresno County Superior Court. Defendants were served with a copy the summons and complaint on December 4, 2013, and removed the action to this Court on January 2, 2014.

On August 15, 2014, the Court screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A, and found that it stated a cognizable claim for excessive force in violation of the Eighth Amendment against Defendant S. Ibarra, but failed to state any other cognizable claims. The Court directed Plaintiff to either file a first amended complaint or notify the Court in writing that he does not wish to file a first amended complaint. (ECF No. 12.)

On September 5, 2014, Plaintiff filed a notice of dismissal of the remaining defendants and Does in this action. (ECF No. 13.) On the same date, Plaintiff filed a first amended complaint against Defendant Ibarra. (ECF No. 14.)

1 Plaintiff's submission of a first amended complaint is not entirely consistent with his  
2 notice of dismissal regarding certain defendants. Plaintiff must clarify his intention for the  
3 Court. If Plaintiff intends to proceed on his first amended complaint, then the Court will screen  
4 the complaint in due course to determine if it states a cognizable claim. If Plaintiff intends to  
5 proceed only on the claim found cognizable in his original complaint against Defendant Ibarra,  
6 then the Court will dismiss the remaining defendants and disregard the first amended complaint.

7 Accordingly, within fourteen (14) days, Plaintiff shall notify the Court in writing if he  
8 intends to proceed on his excessive force claim against Defendant Ibarra as alleged in his  
9 original complaint or if he wishes the Court to screen the first amended complaint filed on  
10 September 5, 2014, to determine if it states a cognizable claim.

11  
12 IT IS SO ORDERED.

13 Dated: October 1, 2014

14 /s/ Barbara A. McAuliffe  
15 UNITED STATES MAGISTRATE JUDGE  
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