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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

RALPH GARBARINI,	)	Case No.: 1:14-cv-01058-AWI-SAB (PC)
	)	
Plaintiff,	)	ORDER GRANTING PLAINTIFF’S MOTION
	)	FOR LEAVE TO FILE AN AMENDED
v.	)	COMPLAINT, AND DENYING PLAINTIFF’S
	)	MOTION FOR SUMMARY JUDGMENT AS
WAYNE ULIT, et al.,	)	MOOT
	)	
Defendants.	)	[Docs. 19, 37, 45]
	)	
	)	

Plaintiff Ralph Garbarini is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

This action is proceeding against Defendants Wang, Ulit, Moon, and Smith on Plaintiff’s claim of deliberate indifference to a serious medical need.

On March 30, 2015, Plaintiff filed a motion for summary judgment and the Court ordered Defendants to oppose the motion on or before July 16, 2015. Doc. 36.

On July 6, 2015, Plaintiff filed a motion for leave to amend the complaint. Doc. 37. Defendants do not oppose Plaintiff’s request to amend the complaint. Doc. 42. However, Defendants request that Plaintiff’s pending motion for summary judgment be vacated because (1): an amended complaint supersedes the original complaint and the motion for summary judgment is based on the original complaint; (2) Plaintiff recently filed an interlocutory appeal; and (3) if amendment is granted, the Court must screen the amended complaint pursuant to 28 U.S.C. § 1915A. Id.

1 In light of Defendants' notice of non-opposition, the Court finds no prejudice to the opposing  
2 party in allowing the amendment. Thus, Plaintiff's motion to amend the complaint shall be granted  
3 and the Court will direct the Clerk to file the amended complaint, lodged on July 6, 2015. Doc. 38.  
4 Consequently, Plaintiff's motion for summary judgment based on the original complaint is now moot  
5 and shall be denied. Plaintiff's amended complaint will be screened by the assigned magistrate judge  
6 in due course. 28 U.S.C. § 1915A.

7 Based on the foregoing, it is HEREBY ORDERED that:

- 8 1. Plaintiff's motion for leave to file an amended complaint (Doc. 37) is GRANTED;
- 9 2. The Clerk of Court is directed to file the amended complaint lodged on July 6, 2015  
10 (Doc. 38); and
- 11 3. Plaintiff's motion for summary judgment (Doc. 19) is DENIED as MOOT.

12  
13 IT IS SO ORDERED.

14 Dated: September 30, 2015

  
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16 SENIOR DISTRICT JUDGE  
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