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

DOMINIQUE D. BAKER,	)	Case No.: 1:16-cv-01873-AWI-SAB (PC)
Plaintiff,	)	
v.	)	<b>ORDER VACATING FINDINGS AND</b>
	)	<b>RECOMMENDATIONS, STRIKING THIRD</b>
HUMBERTO GERMAN, et al.,	)	<b>AMENDED COMPLAINT, AND DIRECTING</b>
Defendants.	)	<b>CLERK OF COURT TO RE-SERVE THE JUNE 4,</b>
	)	<b>2017 ORDER AND RE-ISSUE THE NECESSARY</b>
	)	<b>SERVICE OF PROCESS DOCUMENTS FOR</b>
	)	<b>COMPLETION AND RETURN WITHIN THIRTY</b>
	)	<b>DAYS</b>
	)	
	)	[ECF Nos. 25, 28, 29]
	)	

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

On May 1, 2017, the Court screened Plaintiff’s second amended complaint and found that it stated a cognizable claim for excessive force against Defendants Humberto German and Phillip Holguin, and recommended that Plaintiff’s false imprisonment claim be dismissed for failure to state a cognizable claim for relief.

On June 9, 2017, the Court adopted the Findings and Recommendations, finding service of the complaint appropriate as to Defendants Humberto German and Phillip Holguin for excessive force in violation of the Eighth Amendment, and dismissed all other Defendants and claims from the action for failure to state a cognizable claim.

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1 On June 14, 2017, the Court forwarded Plaintiff the necessary service of process documents for  
2 completion and return within thirty days. After thirty days passed and Plaintiff failed to respond to the  
3 Court's order, the undersigned issued Findings and Recommendations recommending dismissal of the  
4 action for failure to comply a court order.

5 On September 5, 2017, Plaintiff filed objections to the Findings and Recommendations, along  
6 with a third amended complaint which was lodged by the Court. In his objections, Plaintiff contends  
7 that he has responded to the Court's orders by notifying the Court of his intent to proceed only on the  
8 excessive force claim against Defendants Humberto German and Phillip Holguin. However, Plaintiff  
9 overlooks the fact that on June 14, 2017, the Court forwarded the service of process documents to be  
10 completed by him and returned to the Court within thirty days, to which Plaintiff did not comply. In  
11 the interest of justice, the Court will vacate the Findings and Recommendations issued July 19, 2017,  
12 and re-serve the June 14, 2017, order and re-issue the service documents on Plaintiff.

13 With regard to Plaintiff's third amended complaint, the Court cannot decipher the purpose in  
14 submitting a third amended complaint that is identical to the original and first amended complaints  
15 which have been previously screened by the Court. Accordingly, the Court will direct the Clerk of  
16 Court to strike the third amended complaint.

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

- 18 1. The Findings and Recommendations issued July 19, 2017, are vacated;
- 19 2. The Clerk of Court shall re-serve the Court's June 14, 2017 order (Doc. No. 24) on  
20 Plaintiff, along with the necessary service of process forms for completion and return  
21 within thirty days from the date of service of this order;
- 22 3. Plaintiff's third amended complaint, lodged on September 5, 2017, is stricken from the  
23 record; and

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4. Plaintiff is advised that the failure to complete and return the service of process forms within thirty (30) days from the date of service of this order will result in a recommendation that the action be dismissed.

IT IS SO ORDERED.

Dated: September 6, 2017

  
UNITED STATES MAGISTRATE JUDGE