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

TROAS V. BARNETT,)	Case No.: 1:05-cv-01022-BAM PC
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S REQUEST FOR
)	SPECIAL HANDLING OF TRIAL EXHIBITS AS
v.)	MOOT
)	(ECF No. 291)
MARTIN GAMBOA, et al.,)	
)	
Defendants.)	
)	
)	

Plaintiff Troas V. Barnett (“Plaintiff”), a state prisoner, proceeded pro se and in forma pauperis in this civil rights action pursuant to [42 U.S.C. § 1983](#). Plaintiff initiated this action on August 9, 2005. (ECF No. 1.) The matter proceeded to a jury trial on January 22, 2013. The jury returned a special verdict in favor of Defendants Gamboa, Duran and Torres on January 24, 2013, and judgment for Defendants was entered on January 30, 2013. (ECF Nos. 287, 289.) On February 6, 2013, Plaintiff filed a notice of appeal, which was processed to the Ninth Circuit Court of Appeals. (ECF No. 290, 292.)

On February 6, 2013, in conjunction with his notice of appeal, Plaintiff filed the instant motion requesting the retention of trial exhibits pending appeal pursuant to Local Rule 138(e). (ECF No. 291.) Local Rule 138 provides that all exhibits “shall be delivered to the Clerk, who shall keep custody of the same, except as otherwise ordered by the Court.” Local Rule 138(f). In this case, at the conclusion of the trial, and pursuant to stipulation, the trial exhibits were returned to the parties to be

1 retained for purposes of appeal. (ECF No. 281.) In other words, the exhibits are in the possession of
2 the parties, not the Clerk of the Court. Accordingly, Plaintiff's request for the retention of exhibits by
3 the Clerk is DENIED as moot.

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IT IS SO ORDERED.

Dated: April 28, 2014

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE