

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

TROAS V. BARNETT,) Case No.: 1:05-cv-01022-BAM (PC)
)
 Plaintiff,) ORDER REQUIRING DEFENDANTS TO
) RESPOND TO PLAINTIFF’S MOTIONS FOR
 v.) ATTENDANCE OF INCARCERATED
) WITNESSES
 MARTIN GAMBOA, et al.,)
)
 Defendants.)
)
)
)
)

Plaintiff Troas Barnett (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The parties have consented magistrate judge jurisdiction. (Plaintiff’s consent, ECF No. 9; Defendants’ consent, ECF No. 62.) This action proceeds on Plaintiff’s claims that Defendants Gamboa, Duran, and Torres used excessive physical force against him in violation of his rights under the Eighth Amendment of the United States Constitution and that Defendant Torres failed to intervene to protect Plaintiff from harm in violation of his rights under the Eighth Amendment.

On November 5, 2015, Plaintiff filed motions for the attendance of incarcerated witnesses Jermain Delfonso, Manrique Jorge Luis, and Jammal Desean Jennings. (ECF Nos. 344-46.) Under this Court’s scheduling order, any response to those motions must be filed on or before December 3, 2015. The scheduling order stated that the filing of any response to a motion for obtaining the attendance of witnesses is optional. However, the Court now finds that in order to evaluate Plaintiff’s motions, it

1 will require Defendants' position on whether these proposed witnesses should be compelled to attend
2 trial in this matter to testify.

3 Accordingly, it is HEREBY ORDERED that on or before December 3, 2015, Defendants shall
4 file a response to Plaintiff's motions for the attendance of incarcerated witnesses Jermain Delfonso,
5 Manrique Jorge Luis, and Jammal Desean Jennings. (ECF Nos. 344-46.) Any request for an extension
6 of time to comply with this order will require a showing of good cause.

7
8

IT IS SO ORDERED.

9 Dated: November 23, 2015

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28