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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 LOUIS BRANCH,

12 Plaintiff,

13 vs.

14 N. GRANNIS, et al.,

15 Defendants.
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1:08-cv-01655-AWI-GSA-PC

ORDER DENYING PLAINTIFF'S MOTION
TO ATTACH APPENDIX TO AMENDED
OPPOSITION
(Doc. 158.)

ORDER FOR PLAINTIFF TO EITHER:

- (1) NOTIFY THE COURT THAT HE
RESTS ON HIS AMENDED
OPPOSITION AND MOTION TO
STRIKE FILED ON JANUARY 29,
2015, OR
- (2) WITHDRAW HIS AMENDED
OPPOSITON AND MOTION TO
STRIKE, AND FILE A SECOND
AMENDED OPPOSITION AS
INSTRUCTED BY THIS ORDER

THIRTY DAY DEADLINE

25 **I. BACKGROUND**

26 Louis Branch ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis
27 with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
28 commencing this action on July 7, 2008. (Doc. 1.) This action now proceeds on the Third

1 Amended Complaint, filed by Plaintiff on July 10, 2013, against defendants Umphenour,
2 Szalai, and Alvarez (“Defendants”) for deliberate indifference to a serious risk to Plaintiff’s
3 safety in violation of the Eighth Amendment, and against defendant Umphenour for retaliation
4 in violation of the First Amendment. (Doc. 94.)

5 On February 5, 2015, Plaintiff filed a motion to attach an appendix to his January 29,
6 2015 amended opposition to Defendants’ pending motion for summary judgment. (Doc. 158.)

7 **II. LOCAL RULE 220 – CHANGED PLEADINGS**

8 Local Rule 220 provides in part:

9 Unless prior approval to the contrary is obtained from the Court, every
10 pleading to which an amendment or supplement is permitted as a matter of right
11 or has been allowed by court order shall be retyped and filed so that it is
12 complete in itself without reference to the prior or superseded pleading. No
13 pleading shall be deemed amended or supplemented until this Rule has been
14 complied with. All changed pleadings shall contain copies of all exhibits
15 referred to in the changed pleading.

16 On January 29, 2015, Plaintiff filed an amended opposition to Defendants’ pending
17 motion for summary judgment, and a related motion to strike evidence. (Docs. 155, 156.)
18 Now Plaintiff seeks to attach an appendix to his amended opposition. Under Local Rule 220,
19 Plaintiff may not add an appendix after the amended opposition has been filed. To add the
20 appendix, Plaintiff must file a second amended opposition which is complete within itself.

21 Plaintiff shall be allowed thirty days in which to either (1) notify the court that he rests
22 on his amended opposition and related motion to strike evidence filed on January 29, 2015, or
23 (2) withdraw his amended opposition and related motion to strike evidence and file a second
24 amended opposition. If Plaintiff chooses to file a second amended opposition and also seeks to
25 file another motion to strike evidence, he should include the motion to strike as part of the
26 second amended opposition, not as a separate motion.

27 **III. CONCLUSION**

28 Based on the foregoing, IT IS HEREBY ORDERED that:

1. Plaintiff’s motion to attach an appendix to his January 29, 2015 amended
opposition is DENIED;

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- 2. Within thirty days from the date of service of this order, Plaintiff shall either
 - (1) Notify the court in writing he wishes to rest on his amended opposition and motion to strike evidence filed January 29, 2015, and does not wish to file a second amended opposition; or
 - (2) Withdraw his January 29, 2015 amended opposition and motion to strike evidence, and file a second amended opposition as instructed by this order;
- and
- 3. Plaintiff's failure to comply with this order may result in the dismissal of this action.

IT IS SO ORDERED.

Dated: **February 19, 2015** **/s/ Gary S. Austin**
UNITED STATES MAGISTRATE JUDGE