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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 KEVIN E. FIELDS,

12 Plaintiff,

13 vs.

14 P. PATTERSON, et al.,

15 Defendants.
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1:10-cv-01700-LJO-GSA-PC

ORDER DENYING PLAINTIFF'S
REQUEST FOR JUDICIAL NOTICE
(Doc. 55.)

19 **I. BACKGROUND**

20 Kevin E. Fields ("Plaintiff") is a state prisoner proceeding pro se in this civil rights
21 action filed pursuant to 42 U.S.C. § 1983. This case now proceeds on Plaintiff's First
22 Amended Complaint filed on May 31, 2013, against defendant Correctional Officer (C/O)
23 Patterson ("Defendant") for use of excessive force in violation of the Eighth Amendment.¹
24 (Doc. 16.)

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26 ¹ On March 12, 2014, the court issued an order dismissing defendant Borges from this action for
27 failure to state a claim. (Doc. 25.) On February 12, 2015, the court issued an order granting Plaintiff's motion to
28 dismiss under Rule 41, dismissing Plaintiff's state law claims against defendants Finley and Molina and retaliation
claims against defendants Patterson and Molina from this action, with prejudice, and dismissing defendants Finley
and Molina from this action. (Doc. 51.) As a result of these orders, Plaintiff's case now proceeds only against
defendant Patterson for use of excessive force.

1 On September 10, 2014, Defendants filed a motion for partial summary judgment on the
2 grounds that Plaintiff failed to exhaust his administrative remedies for certain claims. (Doc.
3 35.) Plaintiff has not filed an opposition.²

4 On March 9, 2015, Plaintiff filed a request for judicial notice. (Doc. 55.)

5 **II. REQUEST FOR JUDICIAL NOTICE**

6 “A judicially noticed fact must be one not subject to reasonable dispute in that it is
7 either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of
8 accurate and ready determination by resort to sources whose accuracy cannot reasonably be
9 questioned.” Fed. R. Evid. 201(b). “A court shall take judicial notice if requested by a party
10 and supplied with the necessary information.” Fed. R. Evid. 201(d). The court may take
11 judicial notice of court records. Valerio v. Boise Cascade Corp., 80 F.R.D. 626, 635 n.1 (N.D.
12 Cal. 1978), aff’d, 645 F.2d 699 (9th Cir.), cert. denied, 454 U.S. 1126 (1981). “Judicial notice
13 is an adjudicative device that alleviates the parties’ evidentiary duties at trial, serving as a
14 substitute for the conventional method of taking evidence to establish facts.” York v. American
15 Tel. & Tel. Co., 95 F.3d 948, 958 (10th Cir. 1996)(internal quotations omitted); see General
16 Elec. Capital Corp. v. Lease Resolution Corp., 128 F.3d 1074, 1081 (7th Cir. 1997).

17 Plaintiff requests the court to take judicial notice of his deposition taken by defense
18 counsel on February 9, 2015. Plaintiff has not shown good cause for the court to take judicial
19 notice of this document. To the extent that Plaintiff intends to submit the document as
20 evidence in support of his complaint, the court cannot serve as a repository for the parties’
21 evidence. At this stage of the proceedings, this document is not at issue.³ Therefore, the court
22 finds no good cause to take judicial notice of the document submitted by Plaintiff.

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26 ² Plaintiff’s motion for a ninety-day extension of time, to conduct further discovery before filing
27 his opposition, is pending. (Doc. 52.)

28 ³ Plaintiff is not precluded from submitting this evidence at a later stage of the proceedings,
when the course of the litigation brings the evidence into question.

1 **III. CONCLUSION**

2 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's request for judicial
3 notice, filed on March 9, 2015, is DENIED.

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6 IT IS SO ORDERED.

7 Dated: March 10, 2015

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE