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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF CALIFORNIA  
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8 KEVIN FIELDS,

9 Plaintiff,

10 vs.

11 RICHARD ROSENTHAL, et al.,

12 Defendants.  
13

1:10-cv-01764-GSA-PC

ORDER DENYING PLAINTIFF'S  
REQUEST FOR JUDICIAL NOTICE  
(Doc. 45.)

14 **I. BACKGROUND**

15 Kevin E. Fields ("Plaintiff") is a prisoner proceeding pro se in this civil rights action  
16 pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action by civil complaint at the Kings  
17 County Superior Court on August 11, 2010 (Case #10-C0309). On September 23, 2010,  
18 defendant Richard Rosenthal ("Defendant") removed the case to federal court by filing a Notice  
19 of Removal of Action pursuant to 28 U.S.C. § 1441(b). (Doc. 1.) This case now proceeds on  
20 the Second Amended Complaint filed by Plaintiff on August 22, 2012, against Defendant  
21 Rosenthal, for retaliation in violation of the First Amendment. (Doc. 17.)

22 On December 2, 2013, Plaintiff filed a request for judicial notice, with documents  
23 attached. (Doc. 45.)

24 **II. REQUEST FOR JUDICIAL NOTICE**

25 "A judicially noticed fact must be one not subject to reasonable dispute in that it is  
26 either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of  
27 accurate and ready determination by resort to sources whose accuracy cannot reasonably be  
28 questioned." Fed. R. Evid. 201(b). "A court shall take judicial notice if requested by a party

1 and supplied with the necessary information.” Fed. R. Evid. 201(d). The court may take  
2 judicial notice of court records. Valerio v. Boise Cascade Corp., 80 F.R.D. 626, 635 n.1 (N.D.  
3 Cal. 1978), aff’d, 645 F.2d 699 (9th Cir.), cert. denied, 454 U.S. 1126 (1981). “Judicial notice  
4 is an adjudicative device that alleviates the parties’ evidentiary duties at trial, serving as a  
5 substitute for the conventional method of taking evidence to establish facts.” York v. American  
6 Tel. & Tel. Co., 95 F.3d 948, 958 (10th Cir. 1996)(internal quotations omitted); see General  
7 Elec. Capital Corp. v. Lease Resolution Corp., 128 F.3d 1074, 1081 (7th Cir. 1997).

8 Plaintiff requests the court to take judicial notice of three discovery documents: (1)  
9 Declaration of M. Kimbrell in support of privileges and objections to Defendant’s response to  
10 Plaintiff’s request for production of documents; (2) Response to Plaintiff Kevin E. Fields’  
11 request for production of documents to Defendant Richard Rosenthal; and (3) Response to  
12 Plaintiff Kevin E. Fields’ request for admissions to Defendant Richard Rosenthal. (Doc. 45.) .

13 Plaintiff has not shown good cause for the court to take judicial notice of discovery  
14 documents. Plaintiff merely requests the court to take judicial notice of the documents, without  
15 further explanation. As a rule, the parties are not permitted to file discovery documents with  
16 the court. The parties to an action are expected to conduct discovery among themselves  
17 pursuant to the Federal Rules of Civil Procedure, without court intervention, unless an issue  
18 arises under Rule 37(a).<sup>1</sup> Under Local Rules, discovery documents such as interrogatories,  
19 requests for production, requests for admissions, responses, and proofs of service thereof *shall*  
20 *not be filed* unless and until there is a proceeding in which the request, response, or proof of  
21 service is at issue. L.R. 250.2(c), 250.3(c), 250.4(c) (emphasis added). At this stage of the  
22 proceedings, discovery is closed in this action and none of the parties’ discovery documents are  
23 at issue.<sup>2</sup> To the extent that Plaintiff intends to submit the discovery documents as evidence,  
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25 <sup>1</sup> Under Rule 37(a) of the Federal Rules of Civil Procedure, a party propounding discovery may  
26 seek an order compelling disclosure when an opposing party has failed to respond or has provided evasive or  
27 incomplete responses. Fed. R. Civ. P. 37(a)(2)(3).

28 <sup>2</sup> The discovery deadline for this case expired on November 18, 2013, and there are no pending  
motions to compel. (Docs. 26, 40; Court Record.)

1 the court cannot serve as a repository for the parties' evidence. The parties may not file  
2 evidence with the court until the course of litigation brings the evidence into question.  
3 Therefore, the court finds no good cause to take judicial notice of the discovery documents  
4 submitted by Plaintiff.

5 **III. CONCLUSION**

6 Based on the foregoing, Plaintiff's request for judicial notice, filed on December 2,  
7 2013, is DENIED.

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10 IT IS SO ORDERED.

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12 Dated: December 5, 2013

/s/ Gary S. Austin  
13 UNITED STATES MAGISTRATE JUDGE