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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TIMOTHY HOWARD,
Plaintiff,
v.
D. L. DeAZEVEDO, et al.,
Defendants.

Case No. 1:11-cv-00101-AWI-SKO (PC)
**ORDER DENYING REQUEST FOR
JUDICIAL NOTICE AND OVERRULING
OBJECTION TO DEFENDANTS’ WITNESS
AND EXHIBIT LISTS**
(Docs. 91 and 92)

Plaintiff Timothy Howard, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 20, 2011. This case is currently set for jury trial on April 21, 2015, and the Pretrial Order was filed on March 13, 2015. On March 20, 2015, Plaintiff filed a request for judicial notice of prison records documenting his unsuccessful attempts to communicate with his inmate witnesses and an objection to Defendants’ witness and exhibit lists grounded in their failure to serve initial disclosures.

Plaintiff’s request for judicial notice is denied. The Court may only take judicial notice of undisputed matters, but this issue is moot in any event. Fed. R. Evid. 201; *Harris v. Cnty. of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012). On March 13, 2015, the Court issued an order granting Plaintiff’s motion for the attendance of his incarcerated witnesses and it specifically stated, “[A]ny argument that Plaintiff should be penalized for not having more current or specific information is untenable. Inmates’ ability to correspond with one another is restricted by prison

1 regulations, and Plaintiff attested that he repeatedly sought permission to communicate with his
2 inmate witnesses, without success.” (Doc. 89, Order, 2:19-22.)

3 With respect to Plaintiff’s objection, this case was not subject to initial disclosures. Fed.
4 R. Civ. P. 26(a)(1)(B)(iv). The misunderstanding may have arisen from the fact that Plaintiff is
5 proceeding with multiple cases in this district and initial disclosures were ordered in two of those
6 cases.¹ However, initial disclosures were not ordered in this case and rulings in Plaintiff’s other
7 civil cases provide no basis for an objection in this case.

8 Accordingly, Plaintiff’s request for judicial notice is HEREBY DENIED and Plaintiff’s
9 objection to Defendants’ witness and exhibit lists is OVERRULED.

10 IT IS SO ORDERED.

11 Dated: March 23, 2015



SENIOR DISTRICT JUDGE

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28 ¹ The Court takes judicial notice of document #45 in *Howard v. Wang*, 1:10-cv-01783-DLB (PC), and document #28
in *Howard v. Gonzales*, 1:12-cv-00487-LJO-DLB (PC).