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

RICHARD CHARLES HANNA,	CASE NO. 1:12-cv-00501-AWI-SAB
Plaintiff,	ORDER DENYING PLAINTIFF’S MOTION TO
v.	ORDER THE PRESERVATION OF
	DOCUMENTS
MARIPOSA COUNTY SHERIFF DEPT.,	(ECF No. 29)
et al.,	
Defendants.	

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Plaintiff Richard Charles Hanna is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 13, 2013, Plaintiff filed a motion seeking a court order prohibiting Defendants from destroying videotapes or audiotapes taken in the Mariposa County Jail on April 8, 2011, and to save all logs, documents, taser cartridges, blood samples, Breathalyzer test readouts, and hospital records relating to his arrest and an booking on April 8, 2011.

“Litigants owe an uncompromising duty to preserve what they know or reasonably should know will be relevant evidence in a pending lawsuit, or one in the offing . . . .” JUDGE WILLIAM W. SCHWARZER ETAL., FEDERAL CIVIL PROCEDURE BEFORE TRIAL § 11:125 (2004) (internal quotations and citations omitted); see also Leon v. Sys. Corp., 464 F.3d 951, 959 (9th Cir. 2006). This obligation, backed by the court’s power to impose sanctions for the destruction of such evidence, Chambers v. Nasco, Inc., 501 U.S. 32, 43-46 (1991), is sufficient in most cases to secure the preservation of relevant evidence.

Before the court orders additional measures to preserve evidence, there must be some showing that there is a reason to be concerned that potentially relevant evidence will not be preserved and that the

1 opposing party may be harmed as a result. Jardin v. Datallegro, Inc., No. 08-cv-1462-IEG-RBB, 2008  
2 WL 4104473, \*1 (S.D.Cal. Sept. 3, 2008). Given the duty to preserve evidence and the absence of any  
3 showing by Plaintiff that there is reason for the Court to be concerned about the destruction of any  
4 evidence, Plaintiff's motion shall be denied. The Court declines to presume that Defendants will destroy  
5 evidence and Plaintiff has provided no evidence that the videotapes, audiotapes, logs, documents, taser  
6 cartridges, blood samples, Breathalyzer test readouts, or hospital records are in danger of being destroyed.

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8 IT IS SO ORDERED.

9 **Dated: May 16, 2013**

  
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11 UNITED STATES MAGISTRATE JUDGE  
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