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

C. DWAYNE GILMORE,)	Case No.: 1:12-cv-00925-SAB (PC)
)	
Plaintiff,)	
)	ORDER DENYING PLAINTIFF’S MOTION TO
v.)	ADMIT DISCOVERY REQUESTS AND
)	RESPONSES INTO EVIDENCE
C. LOCKARD, et al.,)	(ECF No. 227)
)	
Defendants.)	
)	
)	
)	

Plaintiff C. Dwayne Gilmore is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds to trial against Defendants Lockard, Lopez, and Hightower for excessive force in violation of the Eighth Amendment. All parties have consented to the jurisdiction of a United States Magistrate Judge. (ECF Nos. 8, 199.)

On January 26, 2017, Plaintiff submitted a list of discovery requests and responses intended for use at trial, with copies of the requests pre-marked as Plaintiff’s Exhibits 27-31. (ECF No. 227.) Plaintiff also requests that the Court admit the submitted discovery responses into evidence. (*Id.* at 1.)

Plaintiff’s request to admit the discovery responses into evidence is denied at this time. As discussed in this Court’s January 9, 2010 pretrial order, the parties may seek to admit responses to discovery requests into evidence during trial. The party seeking to admit such evidence must lay a proper factual foundation for those discovery responses so that the Court can determine the

1 admissibility of such evidence in context at trial, and the Court will address any objections at that
2 time. (ECF No. 216, p. 23.) The parties may also stipulate to the admissibility of evidence, and should
3 inform the Court of any stipulations.

4 Accordingly, it is HEREBY ORDERED that Plaintiff's motion to admit discovery requests and
5 response into evidence is denied, subject to being re-raised at trial as explained above.

6 Plaintiff is advised that he must be prepared to lay an evidentiary foundation for each exhibit
7 he intends to introduce at trial and that exhibits are not self-admitting merely by requesting that they
8 be admissteed, unless stipulated.

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10 IT IS SO ORDERED.

11 Dated: February 1, 2017


UNITED STATES MAGISTRATE JUDGE

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