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

KELVIN FELTON,

1:12-cv-01066-AWI-GSA-PC

Plaintiff,

ORDER DENYING PLAINTIFF’S RENEWED  
MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL COMPLAINT, WITHOUT  
PREJUDICE  
(Doc. 16.)

v.

J. LOPEZ, et al.,

Defendants.

\_\_\_\_\_ /

Kelvin Felton (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on June 29, 2012. (Doc. 1.)

On February 13, 2013, the Court issued an order denying Plaintiff’s motion to supplement the Complaint, without prejudice to renewal of the motion with Plaintiff’s declaration signed under penalty of perjury, stating that he had exhausted administrative remedies for a later-occurring incident he seeks to add to the Complaint. (Doc. 12.) On March 13, 2013, Plaintiff filed a renewed motion for leave to file a supplemental complaint. (Doc. 16.)

In the renewed motion, Plaintiff explains that he attempted, but was prevented from, exhausting administrative remedies for the later-occurring incident. However, Plaintiff’s explanation was not submitted to the Court in the form of a declaration signed under penalty of perjury, as

1 required by the Court's order. Therefore, Plaintiff's renewed motion shall be denied without  
2 prejudice to submitting another renewed motion which includes Plaintiff's declaration.

3 Plaintiff is advised that his declaration must be dated and signed by Plaintiff, attesting under  
4 penalty of perjury to facts known by Plaintiff, in substantially the following form: "I declare under  
5 penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)." Such a  
6 declaration, if properly prepared, is admissible in federal court with the same effect as an affidavit.  
7 28 U.S.C. § 1746.

8 Based on the foregoing, Plaintiff's motion to file a supplemental complaint, filed on March  
9 13, 2013, is DENIED, without prejudice to renewal of the motion as instructed by this order.

10  
11 IT IS SO ORDERED.

12 **Dated: March 18, 2013**

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE