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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA
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8 CORNELL BROWN,

9 Plaintiff,

10 vs.

11 R. HARRIS, et al.,

12 Defendants.
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1:12-cv-01472-GSA-PC

ORDER DENYING PLAINTIFF'S MOTION
TO ATTACH EXHIBIT TO OPPOSITION
(Doc. 38.)

ORDER FOR PLAINTIFF TO EITHER:

(1) NOTIFY THE COURT THAT HE
RESTS ON HIS OPPOSITION
FILED JANUARY 27, 2014, OR

(2) FILE AN AMENDED OPPOSITION

THIRTY DAY DEADLINE

17 **I. BACKGROUND**

18 Cornell Brown ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis
19 with this civil rights action pursuant to 42 U.S.C. § 1983. This case now proceeds on
20 Plaintiff's initial Complaint filed on September 10, 2012, against defendant Harris for
21 excessive force in violation of the Eighth Amendment, and defendant Nelson for failure to
22 protect Plaintiff in violation of the Eighth Amendment. (Doc. 1.)

23 On December 6, 2013, defendants Harris and Nelson ("Defendants") filed a motion to
24 dismiss this action for failure to exhaust remedies. (Doc. 22.) On January 27, 2014, Plaintiff
25 filed an opposition to the motion. (Doc. 27.) On February 3, 2014, Defendants filed a reply to
26 Plaintiff's opposition. (Doc. 29.)

27 On March 7, 2014, Plaintiff filed a motion to attach an exhibit to his January 27, 2014
28 opposition. (Doc. 38.)

1 **II. LOCAL RULE 220 – CHANGED PLEADINGS**

2 Local Rule 220 provides in part:

3 Unless prior approval to the contrary is obtained from the Court, every
4 pleading to which an amendment or supplement is permitted as a matter of right
5 or has been allowed by court order shall be retyped and filed so that it is
6 complete in itself without reference to the prior or superseded pleading. No
7 pleading shall be deemed amended or supplemented until this Rule has been
8 complied with. All changed pleadings shall contain copies of all exhibits
9 referred to in the changed pleading.

10 Plaintiff seeks to attach an exhibit to his opposition to Defendants’ motion to dismiss.
11 However, under Rule 220, Plaintiff may not amend the opposition by adding an exhibit after
12 the opposition has been filed. To add information or an exhibit, Plaintiff must file a new
13 amended opposition which is complete within itself.

14 Plaintiff shall be allowed thirty days in which to file an amended opposition, if he so
15 wishes. In the alternative, Plaintiff shall notify the court that he wishes to rest on his opposition
16 filed January 27, 2014 and does not wish to file an amended opposition.

17 **III. CONCLUSION**

18 Based on the foregoing, IT IS HEREBY ORDERED that:

- 19 1. Plaintiff’s motion to attach an exhibit to his opposition to Defendants’ motion to
20 dismiss is DENIED;
- 21 2. Within thirty days from the date of service of this order, Plaintiff shall either
- 22 (1) File an amended opposition to Defendants’ motion to dismiss, or
- 23 (2) Notify the court in writing he wishes to rest on his opposition filed
24 January 27, 2014 and does not wish to file an amended opposition.

25 IT IS SO ORDERED.

26 Dated: April 11, 2014

27 /s/ Gary S. Austin
28 UNITED STATES MAGISTRATE JUDGE