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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL BAKER,

Plaintiff,

No. 2: 09-cv-2757 MCE KJN P

vs.

PEREZ, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s November 2, 2012 motion to file an amended complaint. For the following reasons, this motion is denied.

Plaintiff seeks leave to amend so that he may “clarify issues” based on evidence obtained at the close of discovery. Plaintiff does not describe his proposed amendments. Plaintiff also did not file a proposed amended complaint.

Because plaintiff did not file a proposed amended complaint, the court is unable to evaluate his motion for leave to amend. On this ground, his motion to amend is denied.

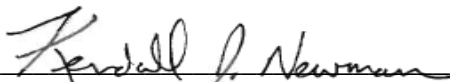
The undersigned also observes that Federal Rule of Civil Procedure 15(a)(2) requires that the court “freely give leave” to amend “when justice so requires.” Fed. R. Civ. P. 15(a)(2). “Five factors are taken into account to assess the propriety of a motion for leave to

1 amend: bad faith, undue delay, prejudice to the opposing party, futility of amendment, and
2 whether the plaintiff has previously amended the complaint.” Johnson v. Buckley, 356 F.3d
3 1067, 1077 (9th Cir. 2004).

4 In the instant case, discovery has long since closed. On October 23, 2012, the
5 court vacated defendants’ summary judgment motion and ordered defendants to file a
6 comprehensive renewed summary judgment motion within thirty days. Allowing plaintiff to file
7 an amended complaint at this late stage of the litigation would prejudice defendants and the
8 court. Plaintiff has also not demonstrated good cause as to why he did not bring his motion to
9 amend sooner. For these reasons, the court would not look favorably on a renewed motion to
10 amend accompanied by a proposed amended complaint.

11 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for leave to file
12 an amended complaint (Dkt. No. 119) is denied.

13 DATED: November 14, 2012

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KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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