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

GARY L. HARPOOL,

Plaintiff,

No. 2:10-cv-1253 MCE GGH P

vs.

M. BEYER, et al.,

ORDER

Defendants.

_____ /

Plaintiff is a prisoner proceeding pro se who seeks relief pursuant to 42 U.S.C. § 1983. Findings and recommendations have been pending since July 6, 2006, recommending that defendants’ motion for summary judgment be granted in part and denied in part. Although plaintiff had been previously informed of the requirements to oppose summary judgment pursuant to Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998), and the court had found plaintiff’s opposition sufficient and well reasoned, in light of Woods v. Carey, --- F.3d ----, 2012 WL 2626912 (9th Cir. July 6, 2012), by order, filed on July 12, 2012, plaintiff was informed again and given an opportunity to provide further evidentiary submissions in support of his opposition, although no such additional submissions were required.

Plaintiff’s response came in the form of a “motion for additional evidentiary submissions” wherein plaintiff in part recounts the evidentiary submissions which he notes were

1 on file in the form of an opposition and supplemental opposition with exhibits and which this
2 court had already considered. He also takes the opportunity given him, not to provide additional
3 evidence in opposition to the motion for summary judgment, but to move for appointment of a
4 neurological and/or orthopedic specialist to testify regarding plaintiff's injury before a jury at the
5 trial he anticipates.

6 Plaintiff's motion is inapposite for purposes of opposition to defendants' motion
7 for summary judgment and is premature inasmuch as the findings and recommendations are still
8 pending.

9 Accordingly, IT IS ORDERED that:

10 1. Plaintiff's July 20, 2012 (docket # 74) motion for appointment of a
11 neurological and/or orthopedic surgeon/specialist to testify regarding his injury before a jury is
12 denied as inapposite and premature; and

13 2. No modification of the findings and recommendations, filed on July 6, 2012, is
14 warranted in light of the response provided by plaintiff following the notice the court provided
15 post-Woods.

16 DATED: August 7, 2012

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18 /s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

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