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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES HENRY FLOURNOY,  
Plaintiff,

v.

SACRAMENTO COUNTY SHERIFF  
DEP'T, et al.,  
Defendants.

No. 2:11-cv-2844-KJM-EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On September 25, 2017, the court recommended that defendant Bauer and Sahba’s motions for summary judgment be granted, and that defendant Kinder’s motion for summary judgment be granted and denied in part.<sup>1</sup> ECF No. 175. Plaintiff has now filed a motion entitled “Motion to Supplement Discovery Response to Plaintiff’s Oppositions to Each Defendants Motion for Summary Judgment.” ECF No. 176. Plaintiff states that he “recently discovered” that portions of his oppositions to defendants’ motions were “incomplete” and he “is simply including that formerly excluded evidence by way of this motion.” *Id.* at 1.

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<sup>1</sup> Plaintiff has been granted an extension of time to file objections to those findings and recommendations. ECF No. 178.

1           The purpose of plaintiff's motion is not clear. Because it is procedurally and substantively  
2 deficient, it will be denied. Briefing on the summary judgment motions has long since concluded  
3 and there is no basis for submitting new "evidence" at this time. If the additional evidence is  
4 intended to support any objections plaintiff intends to file to the pending findings and  
5 recommendations, he may say so in those objections and explain how the evidence relates to his  
6 arguments. Plaintiff should be aware, however, that the court is not required to consider new  
7 evidence presented with objections. *See Rojas v. Marko Zaninovich, Inc.*, No. 1:09-cv-705-AWI-  
8 JLT, 2012 U.S. Dist. LEXIS 51787, at \*37-39 (E.D. Cal. Apr. 12, 2012) (reasoning that allowing  
9 new evidence with objections would defeat the reasons for referring motions to magistrate judges  
10 and not assist the court). The court also notes that if this district judge adopts the findings and  
11 recommendations, this case will proceed to trial against defendant Kinder on an excessive force  
12 claim. At trial, plaintiff will have the opportunity to present additional evidence.

13           Accordingly, IT IS HEREBY ORDERED that plaintiff's "Motion to Supplement  
14 Discovery Response to Plaintiff's Oppositions to Each Defendants Motion for Summary  
15 Judgment" (ECF No. 176) is denied.

16 DATED: November 29, 2017.



EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE