

1 No. 73 at 27-34.) The declaration addresses some findings made by the magistrate judge. For
2 example, the magistrate judge found that plaintiff provided no evidence demonstrating that
3 following June 1, 2015, defendant Chau knew that plaintiff had previously tried methadone and
4 that it did not effectively treat his pain. (ECF No. 68 at 15.) The magistrate judge found that
5 plaintiff did not claim that after June 1, 2015, plaintiff told defendant Chau that he (plaintiff) had
6 previously tried methadone and that it did not adequately treat his pain. (Id.) The magistrate
7 judge also found that defendant Chau's alleged failure to review plaintiff's medical records did
8 not amount to deliberate indifference. (Id. at 14.)

9 In the declaration attached to his objections, plaintiff states that on more than one
10 occasion, he tried to express to defendant Chau that when he used methadone in the past, it did
11 not effectively relieve plaintiff's pain. (ECF No. 32.) Plaintiff also alleges that he observed
12 defendant Chau reviewing plaintiff's electronic medical file during each appointment with him.
13 (Id. at 33.)

14 The undersigned declines to consider the new evidence attached to plaintiff's objections,
15 including plaintiff's declaration. See Brown v. Roe, 279 F.3d 742, 744-45 (9th Cir. 2002)
16 (district court has discretion but is not required to consider evidence or claims presented for the
17 first time in objections to a report and recommendation). Plaintiff filed a 119 page opposition to
18 defendants' summary judgment motion. (ECF No. 64.) Plaintiff had ample opportunity to
19 present evidence in support of his claims.

20 Accordingly, IT IS HEREBY ORDERED that:

- 21 1. The findings and recommendations filed December 20, 2019, are adopted in full;
- 22 2. Defendants' summary judgment motion (ECF No. 58) is granted as to plaintiff's
23 Eighth Amendment claims; and
- 24 3. Plaintiff's state law claims are dismissed.

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26 DATED: May 5, 2020

27 /s/ John A. Mendez

28 UNITED STATES DISTRICT COURT JUDGE