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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD ROY WELCH,  
Plaintiff,  
v.  
B. STRATTON, et al.,  
Defendants.

No. 2:17-cv-0517 MCE KJN P

ORDER AND ORDER TO SHOW CAUSE  
AND REVISED SCHEDULING ORDER

Plaintiff is a state prisoner, proceeding without counsel. This action proceeds on plaintiff’s amended complaint against defendant Stratton. (ECF No. 28.) Multiple motions are pending, which the undersigned addresses as follows.

I. Background

On March 13, 2018, the court issued a discovery and scheduling order; discovery closes July 6, 2018, and all motions necessary to compel discovery must be filed by that date. (ECF No. 53.) In addition, all discovery requests must have been served no later than sixty days prior to that date. (Id.) The pretrial motions deadline expires on September 28, 2018. (ECF No. 53.)

II. Motions Related to Discovery

The following motions pertain to discovery. On May 9, 2018, while still housed at High Desert State Prison (“HDSP”), plaintiff filed a motion for 45-day extension of time in which to respond to defendant’s discovery requests, alleging that plaintiff cannot respond to discovery

1 raised in the “article 28, motion to compel,” because plaintiff does not have documents that  
2 remain in the constructive possession of defendant and were not produced. (ECF No. 54 at 1.) In  
3 addition, plaintiff claims that he will be residing at CSP-Corcoran to attend proceedings in Kings  
4 County in Case No. 16M-0118/16CM-2996. (ECF No. 54 at 2.) Plaintiff also filed a motion to  
5 compel further discovery responses on May 9, 2018. (ECF No. 55.) Defendants filed oppositions  
6 to both the motion for extension of time and the motion to compel. (ECF Nos. 61 & 62.)

7 On May 31, 2018, plaintiff filed duplicate copies of his motion to compel and his request  
8 for a 45-day extension of time to respond to defendant’s discovery related to “article 28, motion  
9 to compel.” (ECF Nos. 59 & 60.)

10 A. May 9, 2018 Motion to Compel

11 Plaintiff moves to compel further responses for his requests No. 1, 4, 8, 9, 10, 13, 19 and  
12 20.

13 Request for Production No. 1: The complete (BCJ) Butte County  
14 Jail record(s) of the Plaintiff.

15 Defendant’s Response: Objection. This request is overbroad and  
16 vague and ambiguous as to “complete Butte County Jail records.”  
17 Subject to and without waiving said objections, Defendant responds  
as follows: Defendant has conducted a diligent search and  
reasonable inquiry and will produce responsive documents. See  
Bates DEF 000001-000104.

18 In his motion to compel, plaintiff claims that defendant’s response is “inadequate,” citing  
19 all 154 pages of the documents bate-stamped by defendant, alleging defendant perjured himself in  
20 the preliminary statement because defendant is in constructive possession of discovery he claims  
21 is “presently unavailable,” and failed to produce compact discs and transcripts of plaintiff’s visits.  
22 (ECF No. 55 at 2.)

23 Despite his objection, defendant produced plaintiff’s entire inmate file and medical file,  
24 and argues that under Rule 34(b)(1)(A) of the Federal Rules of Civil Procedure, plaintiff was  
25 required to “describe with reasonable particularity each item or category of items to be  
26 inspected,” and the request as written fails to identify any additional or different documents with  
27 particularity.

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1 Defendant's objection is well-taken. Plaintiff did not narrow his request by date or topic,  
2 instead seeking "complete jail records" of plaintiff. Such request is overbroad and vague, failing  
3 to identify the specific records sought by plaintiff. Defendant provided plaintiff's entire medical  
4 and jail files. No further response is required.

5 Request for Production No. 4: The full names and titles of the  
6 classification officer(s) on duty pertaining to the 8-28-2016 and 9-  
14-2016 incidents.

7 Defendant's Response: Objection. This request is compound and  
8 vague and ambiguous as to "classification officer(s)," "on duty," and  
9 "pertaining to the 8-28-2016 and 9-1-2016 incidents." Defendant  
10 further objects to this request on the grounds that it is an  
interrogatory, not a document request. Subject to and without  
11 waiving said objections, defendant Responds as follows: Defendant  
has conducted a diligent search and reasonable inquiry and will  
produce responsive documents. See Bates DEF 000011-000018.

12 Plaintiff argues that his request was a document request as "proved" by defendant  
13 producing the above documents bearing unidentifiable signatures and abbreviated signatures  
14 without identification. (ECF No. 55 at 2-3.) Plaintiff argues that there are known Butte County  
15 Jail documents somewhere showing identifiable names, titles and identities of those classification  
16 officers that defendant can produce. (Id. at 3.)

17 Defendant counters that plaintiff's request is an interrogatory, not a request for production  
18 of documents. Despite objection, defendant produced all of the housing classification documents  
19 relating to plaintiff's incarceration at the County Jail, which have the initials for all of the  
20 classification officers that plaintiff met with during his incarceration.

21 Defendant is correct that plaintiff mischaracterized his discovery request as a request for  
22 production of documents, yet provided plaintiff with copies of the pertinent documents.  
23 Defendant is not required to provide further response to request no. 4. However, plaintiff is  
24 granted leave to propound interrogatories to defendant Stratton specifically seeking the identity of  
25 those jail employees identified by handwriting and handwritten initials on Bates Nos. 000011,  
26 000013, and 000016.

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Request for Production No. 8:

The full names and titles of any and all other official(s) in charge of the BCJ.

Defendant's Response:

Objection. This request is overbroad, vague and ambiguous as to "other official(s) in charge of the BCJ," and not reasonably calculated to lead to the discovery of admissible information. Defendant further objects to this request on the grounds that it is an interrogatory, not a document request. Subject to and without waiving said objections, Defendant responds as follows: For information about the chain of command for the Butte County Jail, please visit the Butte County Sheriff's website at <http://www.buttecounty.net/sheriffcoroner/Home.aspx>.

Plaintiff objects that defendant should have printed out the county jail's website because plaintiff does not have access to the internet.

Defendant contends that plaintiff's request did not seek the production of a document, but asked defendant to provide a written response, which is more properly posed as an interrogatory. Further, defendant argues that plaintiff's request is vague, because although there is a chain of command at the Butte County Sheriff's Office, Sheriff Kory Honea is "in charge of" the Butte County Jail.

Defendant's objection is well-taken. Plaintiff's request was not a request for production of documents, but should have been in the form of an interrogatory. Moreover, there can be no liability on the basis of respondeat superior in a § 1983 action. Thus, it is unclear whether plaintiff's improperly-propounded request would lead to the discovery of relevant information. No further response is required.

Request for Production No. 9: Any and all (BCJ) Butte county jail rule(s), regulations(s) and policie(s), pertaining to (576) security threat groups.

Defendant's Response: Objection. This request is overbroad, vague and ambiguous as to "jail rule(s)," "regulation(s)," "policie(s)," and "pertaining to (576) security threat groups." Further, this request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving said objections, Defendant responds as follows: Defendant has conducted a diligent search and reasonable inquiry and will produce responsive documents. The General Population Housing Units by Gang Association Chart is a confidential document that is not

1 available for public consumption. For the safety of the Butte County  
2 Jail inmates, it has been redacted such that only information relevant  
3 to Plaintiff's case may be viewed. See Bates DEF 000105-000153.

4 Plaintiff argues that the inference from "(576)" is known, that defendant is the  
5 investigative officer in charge of documenting "(576)" security threat group violence, and can  
6 produce every rule, regulation, and policy pertaining to such groups. (ECF No. 55 at 3-4.)  
7 Plaintiff asserts that defendant cannot "evade his classification duties by attempting to divert . . .  
8 and cast[] blame on his subordinates in classification . . . [who] depend on his . . . investigative  
9 reports" to ensure classification is aware of and adheres to such investigative reports. (ECF No.  
10 55 at 4.) Plaintiff contends that defendant knew plaintiff was targeted by a gang yet failed to  
11 protect plaintiff from further assault, and also failed to ensure classification noted the assailant as  
12 plaintiff's enemy. (ECF No. 55 at 5.)

13 Defendant contends no further response is warranted, because plaintiff's request about  
14 "(576)" security threat groups is vague, and that defendant was unaware what plaintiff meant by  
15 such term. Over objection, defendant produced the Jail Information Handbook, which is a  
16 complete set of the Jail's formal written policies and procedures, as well as a redacted version of  
17 the Jail's chart for housing units by gang association, and relevant information was left un-  
18 redacted.

19 Plaintiff's request was overbroad because he failed to narrow his request to documents  
20 relevant to his instant claims. In his motion, plaintiff did not provide further definition for his  
21 term "(576)," and did not specifically address "the documents defendant did provide. Defendant  
22 provided a copy of the general population housing units by gang association, leaving unredacted  
23 information pertinent to plaintiff's claims herein. (ECF No. 55 at 197 (Bates DEF 000153).) The  
24 undersigned finds plaintiff failed to identify additional documents responsive to this request. No  
25 further response is required.

26 Request for Production No. 10: Any and all (BCJ) security video  
27 footage taken of the Plaintiff before, during, and after the 8-28-2016  
28 and 9-14-2016 incidents.

1           Defendant's Response: Objection. This request is overbroad,  
2           compound, unduly burdensome, vague and ambiguous as to  
3           "security footage," and not reasonably calculated to lead to the  
4           discovery of admissible evidence. Subject to and without waiving  
5           said objections, Defendant responds as follows: Defendant has  
6           conducted a diligent search and reasonable inquiry and will produce  
7           responsive documents.

8           Plaintiff objects that defendant failed to produce video of the injuries plaintiff sustained  
9           after each incident, as well as the video filmed in the nurses' station outside the pods.

10          Defendant objects that plaintiff's request for all security video footage taken of him is  
11          overbroad, vague as to time, and unduly burdensome, for the following reasons. First, video  
12          footage of plaintiff not pertaining to the subject incidents is not relevant and his request is not  
13          reasonably calculated to lead to the discovery of admissible information. Second, it is unclear  
14          how much time before and after the incidents plaintiff sought – whether he wanted weeks before  
15          and after each incident, or days, hours, or minutes. Third, the jail does not store its video by  
16          inmate; thus, complying with the request would require defendant to review hundreds of hours of  
17          the jail's security footage, from numerous security cameras, to comply with the request. Such  
18          task is unduly burdensome, especially considering that videos of plaintiff before and after the  
19          incidents are unlikely to have any relevant information. Finally, the jail does not store videos  
20          indefinitely and it is likely that much of the video plaintiff seeks has not been stored. Defendant  
21          produced to plaintiff videos of the two incidents. Those videos were identified and saved by the  
22          Butte County Sheriff's Office along with the reports for the subject incidents.

23          Defendant's objection is well-taken. Plaintiff's request No. 10 was overbroad in that it  
24          was not specifically narrowed to the times and circumstances involved in the two incidents at  
25          issue here. Moreover, defendant provided plaintiff with DVDs for both incidents. Plaintiff  
26          contends that defendant failed to provide plaintiff with DVDs or photographs of plaintiff's  
27          injuries taken after each incident, and defendant did not address this allegation in his opposition.

28          A property report appears to indicate that the video and photographs of plaintiff's injuries  
29          were included in a DVD recovered on September 15, 2016. (ECF No. 55 at 85 (Bates DEF  
30          000041).) However, because it appears plaintiff has been unable to view the DVD evidence (ECF  
31          No. 64), and defendant did not address whether the provided DVDs contained the video or

1 photographs of plaintiff's injuries taken after each incident, defendant will be ordered to address  
2 whether such DVDs contained the evidence of plaintiff's injuries.

3 Moreover, plaintiff's request to have additional video of security footage taken outside the  
4 nurses' station prior to or after the incidents at issue is overbroad and unduly burdensome on  
5 defendant. See Mailhoit v. Home Depot U.S.A., Inc., 285 F.R.D. 566, 570 (C.D. Cal. 2012)  
6 ("All-encompassing demands that do not allow a reasonable person to ascertain which documents  
7 are required do not meet the particularity standard of Rule 34(b)(1)(A)") (internal quotations  
8 omitted). Plaintiff may not use discovery requests to engage in a fishing expedition in the hopes  
9 that he may turn up some relevant or useful information. Rivera v. NIBCO, Inc., 364 F.3d 1057,  
10 1072 (9th Cir. 2004). Plaintiff's request for additional video surveillance footage is denied.

11 Request for Production No. 13: The complete (BCJ) D.A. referral  
12 record(s) pertaining to the charges against the documented and  
13 undocumented (BCG) butte county gangster members that  
committed the 8-28-2016 and 9-14-2016 assaults.

14 Defendant's Response: Objection. This request is overbroad, unduly  
15 burdensome, and vague and ambiguous as to "(BCJ) D.A. referral  
16 record(s)." Subject to and without waiving said objections,  
Defendant responds as follows: After a diligent search and  
reasonable inquiry, Defendant will produce responsive documents.  
See Bates DEF 000001-000008; DEF 000019-000050.

17 Plaintiff complains that defendant redacted the names and addresses of the assailants  
18 involved in the two attacks on plaintiff at issue here. Plaintiff argues that he is entitled to receive  
19 such information for purposes of future safety, as well as his right to pursue claims against such  
20 assailants in civil court. (ECF No. 55 at 6-7.) Further, plaintiff argues that such information is  
21 now a matter of public record given the criminal charges brought against such assailants.

22 Defendant argues that he produced his reports regarding the subject incidents, as well as  
23 all related documents that were forwarded to the District Attorney's office for prosecution of  
24 plaintiff's assailants. Those were all of the documents that defendant had in his possession,  
25 custody, or control. To the extent the District Attorney's Office has additional documents,  
26 defendant does not have access to them. Further, it is undisputed that the District Attorney  
27 prosecuted plaintiff's assailants and they were all sentenced to state prison for assaulting plaintiff.  
28 Defendant contends that requesting he produce additional documents in the possession of the

1 District Attorney's Office is not reasonably calculated to lead to the discovery of admissible  
2 evidence for plaintiff's lawsuit against defendant.

3 Defendant's objections to further production are well-taken. However, defendant did not  
4 address the issue of redaction. Defendant redacted, without explanation, the names of plaintiff's  
5 assailants from the August 28, 2016 and September 14, 2016 incident reports, from plaintiff's jail  
6 enemy list (Bates 000012), as well as from the documents referred to the District Attorney's  
7 office for prosecution. Because the instant action proceeds on plaintiff's claim that defendant  
8 failed to protect plaintiff from an attack by these assailants, their identities are relevant. For  
9 example, if these documents demonstrate that plaintiff was attacked by the same individuals on  
10 both occasions, such evidence would strengthen plaintiff's failure to protect claim. In addition,  
11 now that plaintiff is housed in the California Department of Corrections ("CDCR"), he may be  
12 asked to identify his enemies; thus, he would need to know the names of the assailants in order to  
13 include them on the CDCR enemy roster for plaintiff's future protection.

14 In an abundance of caution, defendant is ordered to show cause why defendant should not  
15 provide plaintiff with unredacted copies of the incident reports, his list of enemies, and the  
16 documents referred to the District Attorney's office for prosecution (Bates DEF 000001-000004  
17 (8-28-16 incident report), Bates 000005-000007 (9-14-16 incident report); 000012 (BCJail  
18 Confidential); 000019-000050 (some duplication because it includes incident reports). (ECF No.  
19 55 at 45-51; 56; 63-94.)

20 Request for Production No. 19: The complete (BCJ) log book  
21 record(s) of the Plaintiff's visitor list.

22 Defendant's Response: Objection. This request is overbroad and  
23 vague and ambiguous as to "(BCJ) log book record(s)." Subject to  
24 and without waiving said objections, Defendant responds as follows:  
25 Defendant has conducted a diligent search and reasonable inquiry  
26 and will produce responsive documents. See Bates DEF 000154.

25 Plaintiff contends that defendant is in possession of discovery they claim is unavailable,  
26 pointing to defendant's requests for admission by plaintiff nos. 23, 24, & 25. (ECF No. 55 at 7,  
27 citing ECF No. 55 at 15.) Plaintiff contends that these requests demonstrate that defendant has  
28 compact disc recordings and typewritten transcripts of plaintiff's visits. (ECF No. 55 at 7.)

1 Plaintiff asks the court to order defendant to produce every recording and transcript of plaintiff's  
2 visits, including the September 4, 2016 visit.

3 Defendant argues that he produced the Inmate Visitor log for all visitors who visited  
4 plaintiff during his incarceration at the Butte County Jail from August 12, 2016, to October 14,  
5 2016, and to the extent plaintiff seeks production of additional documents, his request is not  
6 described with sufficient particularity as required by Rule 34(b)(1)(A) of the Federal Rules of  
7 Civil Procedure.

8 In request no. 19, plaintiff sought log book records only, and did not seek CDs or  
9 transcripts of visiting records. Therefore, plaintiff's motion to compel further response is denied.  
10 However, in his motion, plaintiff identified three requests for admission asking plaintiff to admit  
11 that on September 4, 2016, during a visit, plaintiff discussed his black eye, explaining that  
12 plaintiff "had it coming" from some dirtbag plaintiff had wronged in the past; that "P-Pod" was  
13 nice, and plaintiff had his own "huge" cell; and that plaintiff's visitor told plaintiff that he should  
14 not get beat up just to get transferred to "P-Pod." (ECF No. 55 at 15.) Plaintiff appears to argue  
15 that such requests suggest they are based on information held by defendant, but it is not clear that  
16 the requests are based on recordings of visits or transcripts of visits, as opposed to a witness who  
17 plans to testify. Nevertheless, plaintiff is entitled to discover the basis for such questions, as  
18 follow-up discovery requests to the requests for admissions propounded by defendant. Plaintiff is  
19 granted leave to submit follow-up discovery requests to determine the source behind such  
20 requests for admissions nos. 23-25.

21 Request for Production No. 20: The complete (BCJ) court dockets  
22 for 8-17-2016, 9-14-2016, and 10-12-2016.

23 Defendant's Response: Objection. This request is overbroad, unduly  
24 burdensome, compound, vague and ambiguous as to (BCJ) court  
25 dockets, and not reasonably calculated to lead to the discovery of  
26 admissible evidence. Subject to and without waiving said objections,  
27 Defendant responds as follows: Defendant has conducted a diligent  
28 search and reasonable inquiry and does not have any documents in  
its custody, possession, or control because it never had any such  
documents.

(ECF No. 55 at 42.)

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1 Plaintiff argues that defendant has the means to acquire such documents as an  
2 investigative officer working with the Butte County prosecution, and that the Butte County Jail is  
3 issued daily all court dockets to produce jail detainees for court proceedings. (ECF No. 55 at 8.)

4 Defendant's objections are well-taken. This request is vague, compound, and not  
5 reasonably calculated to lead to the discovery of relevant evidence. Plaintiff fails to explain how  
6 court dockets will provide relevant evidence for his failure to protect claim against defendant  
7 Stratton. No further response is required.

8 **B. Plaintiff's Motion for Extension**

9 Plaintiff seeks an additional 45 days in which to respond to defendant's discovery  
10 requests, "under the following matters raised in article 28, motion to compel." (ECF No. 54 at 1.)  
11 Plaintiff argues that he cannot respond due to defendant's alleged perjury and failure to produce  
12 adequate and complete discovery.

13 Defendant objects to plaintiff's request for extension of time because plaintiff did not first  
14 seek an extension from defendant, and argues that a 45-day extension of time is not reasonable.  
15 In addition, defendant contends that plaintiff's claim that his motion to compel is the basis for his  
16 request for extension is not well taken because plaintiff is obligated to respond to defendant's  
17 written discovery regardless of defendant's responses to plaintiff's discovery.

18 Defendant is correct. Plaintiff is obligated to timely respond to defendant's discovery  
19 requests without regard to defendant's discovery responses. Moreover, plaintiff cannot delay  
20 responding to discovery simply because he wants to receive defendant's responses first.  
21 Plaintiff's discovery responses were due on May 14, 2018; plaintiff has now had over an  
22 additional month in which to respond. In the meantime, defendant provided plaintiff with 154  
23 pages of documents pertinent to the incidents at issue herein.

24 Therefore, plaintiff's motion for extension of time is denied. Plaintiff shall respond to  
25 defendant's discovery within fourteen days from the date of this order. Further, plaintiff is  
26 cautioned that failure to cooperate in discovery may result in the imposition of sanctions  
27 including, but not limited to, monetary sanctions or a recommendation that this action be  
28 dismissed as a sanction.

1           C. Plaintiff's Duplicate Motions

2           On May 31, 2018, plaintiff filed duplicate copies of his prior motion for extension and  
3 motion to compel. Plaintiff's duplicate motions are denied. Plaintiff is cautioned to refrain from  
4 filing duplicate motions in the future.

5           III. Motion to Retain Evidence

6           On June 18, 2018, plaintiff filed a motion allowing him to keep on his person DVDs of  
7 the 8-28-2016 and 9-14-2016 assault incidents, and to provide him a place to view said DVDs and  
8 any other DVD admissible evidence. (ECF No. 64.) On this filing, plaintiff included both his  
9 HDSP address, as well as his address at CSP-Corcoran, where he is often transferred for  
10 attendance in state court. (Id.)

11           Other than stating there is a CDCR policy that does not provide a pro se plaintiff any  
12 avenue to keep such evidence on his person and provide a place for him to view the DVD,  
13 plaintiff fails to explain why it is necessary for him to keep such DVD's on his person, or why he  
14 would need to view DVD's of the "assault incidents" continuously, or at his convenience. Thus,  
15 plaintiff's request to retain such evidence on his person is denied.

16           That said, because this evidence is relevant to his case, plaintiff is entitled to review such  
17 evidence. Counsel for defendant is ordered to coordinate with the litigation coordinator at HDSP  
18 to arrange a time for plaintiff to review the two DVDs and make notes during such review. Such  
19 review shall be scheduled within the next thirty days.

20           IV. Motion Requesting Two Addresses

21           Also on June 18, 2018, plaintiff filed a motion for address change relief requesting  
22 permission to retain both addresses due to "repetitive out to court proceedings and returns,"  
23 arguing that his legal mail has been playing catch up and some has gone missing. (ECF No. 65 at  
24 1-2.) Plaintiff is advised that the court has no provision for litigants retaining two mailing  
25 addresses at the same time; indeed, plaintiff is under an obligation to keep this court informed of  
26 his current address at all times. Moreover, plaintiff has been able to timely address issues that  
27 have arisen to date in his case, as well as file motions. Plaintiff's motion is denied.

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1 V. Second Amended Complaint

2 Finally, on June 20, 2018, plaintiff filed a 183-page document entitled, “Second Amended  
3 Complaint.” (ECF No. 67.) In his filing, plaintiff states that he is now able to show evidentiary  
4 documents in support of his cause of action, and appends multiple exhibits.

5 (a) Amendments Before Trial.

6 (1) Amending as a Matter of Course. A party may amend its  
7 pleading once as a matter of course within:

8 (A) 21 days after serving it, or

9 (B) If the pleading is one to which a responsive pleading is  
10 required, 21 days after service of a responsive pleading or 21 days  
11 after service of a motion under Rule 12(b), (e), or (f), whichever is  
12 earlier.

13 (2) Other Amendments. In all other cases, a party may amend its  
14 pleading only with the opposing party’s written consent or the court’s  
15 leave. The court should freely give leave when justice so requires.

16 Fed. R. Civ. P. 15(a)(1), (2).

17 Here, defendant Stratton filed an answer on February 28, 2018. Therefore, plaintiff must  
18 file a separate motion seeking leave to amend his pleading, and explaining why he needs to  
19 amend his pleading. Plaintiff must append a proposed amended pleading to the motion to amend.  
20 Moreover, plaintiff is advised that he is not required to include evidentiary support in his  
21 complaint. Rather, a pleading should identify the defendants and contain factual allegations  
22 supporting plaintiff’s causes of action. Finally, plaintiff is not required to append exhibits to his  
23 complaint. In addition to re-filing the documents provided in discovery (Bates DEF 000001-  
24 000154), plaintiff provided medical records, as well as a copy of defendant’s answer, for a total of  
25 173 pages of exhibits. The practice of attaching reams of documents to a complaint usually does  
26 not aid the court in any way, and instead “needlessly complicates challenges to the sufficiency of  
27 pleadings.” Montgomery v. Buege, 2009 WL 1034518 at \*4 (E.D. Cal. April 16, 2009) (Shubb,  
28 J.) (striking attached exhibits which “do not form the basis of the claims alleged in the  
Complaint”). For example, defendant’s answer is filed in the court record and should not be  
appended to plaintiff’s complaint.

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1 For all these reasons, plaintiff's second amended complaint will remain in the court  
2 record, but is disregarded. If plaintiff chooses to file a motion to amend, and provide a second  
3 amended complaint, he shall not append any exhibits to such pleading, and is required to file any  
4 such amended pleading on the court's complaint form.

5 VI. Motion for Copy Service Relief

6 On June 22, 2018, plaintiff filed a motion for relief from "copy service," stating that he  
7 intends to file additional motions that rely on documents identified as DEF 000001-0000154.  
8 (ECF No. 68.) Specifically, plaintiff claims he will be seeking judicial notice of adjudicative  
9 facts, and will file a motion to strike some discovery responses as inadmissible evidence.

10 First, both parties have now filed complete copies of the 154 pages of documents bate-  
11 stamped by defendant, and plaintiff again provided them with his second amended complaint. No  
12 party should re-submit this complete set of documents, which is now part of the court record and  
13 can be identified by bates number. Moreover, if and when a particular document becomes at  
14 issue, only the document at issue should be submitted, not the entire set of documents. Second,  
15 plaintiff has been provided numerous documents through discovery, which may or may not be  
16 ultimately admissible at trial. It is premature for plaintiff to file a motion as to admissibility of  
17 any documents at this time. No dispositive motions have yet been filed. Once such motions are  
18 resolved, and if this case survives summary judgment, the undersigned will issue a further  
19 scheduling order. Thereafter, a pretrial order will issue that addresses trial exhibits and objections  
20 to exhibits the parties seek to admit at trial. Third, with regard to a proposed motion asking this  
21 court to take judicial notice of adjudicative facts, plaintiff is advised that such motion is  
22 premature. At the time the parties file motions for summary judgment, each party will be  
23 required to set forth disputed and undisputed facts.

24 Therefore, plaintiff's request for relief from "copy service" is partially granted; both  
25 parties are prohibited from filing another set of the 154 pages of discovery documents provided to  
26 plaintiff (Bates DEF Nos. 000001-0000154).

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1 VII. Warnings to Plaintiff

2 Finally, plaintiff is admonished to exercise restraint in filing motions and requests. Since  
3 May 9, 2018, plaintiff has filed nine separate motions and requests, two of which were duplicates.  
4 Plaintiff should refrain from submitting duplicate filings and await the court's rulings. Plaintiff is  
5 formally cautioned that a litigant proceeding in forma pauperis may suffer restricted access to the  
6 court where it is determined that he has filed excessive motions in a pending action. DeLong v.  
7 Hennessey, 912 F.2d 1144 (9th Cir. 1990); see also Tripati v. Beaman, 878 F.2d 351, 352 (10th  
8 Cir. 1989). Plaintiff is cautioned that this court views the number of motions filed to date as  
9 excessive and that consideration will be given to restricted court access if plaintiff does not  
10 exercise appropriate restraint henceforth.

11 VIII. Revised Scheduling Order

12 Because plaintiff is granted an opportunity to propound additional limited discovery, the  
13 discovery deadline is extended from July 6, 2018, to September 6, 2018, solely for the discovery  
14 identified in this order. Defendant shall respond to such discovery within thirty days.  
15 Accordingly, the pretrial motions deadline is continued from September 28, 2018, to December 6,  
16 2018.

17 IX. Conclusion

18 IT IS HEREBY ORDERED that:

19 1. Plaintiff's motion for an extension of time (ECF No. 54) is denied; plaintiff shall serve  
20 his discovery responses on counsel for defendant within fourteen days from the date of this order.

21 2. Plaintiff's motion to compel (ECF No. 55) is partially granted, as follows:

22 A. Plaintiff is granted leave to forthwith propound interrogatories to defendant  
23 Stratton specifically seeking the identity of those jail employees identified by handwriting and  
24 handwritten initials on Bates DEF Nos. 000011, 000013, and 000016.

25 B. Plaintiff is granted leave to forthwith propound interrogatories or a request for  
26 production of documents to determine the source behind defendant's requests for admissions nos.  
27 23-25 (relevant to Request No. 19).

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1 C. In fourteen days from the date of this order, defendant shall show cause why he  
2 should not provide plaintiff with unredacted copies of the two incident reports, the Butte County  
3 Jail list of plaintiff's enemies, and the documents referred to the District Attorney's office for  
4 prosecution (Bates DEF Nos. 000001-000004, 000005-000007, 000012, and 000019-000050.  
5 (ECF No. 55 at 45-51; 56; 63-94.)

6 D. In his response to the order to show case, defendant shall also address whether  
7 the two DVDs produced to plaintiff contain the video or photographic evidence of plaintiff's  
8 injuries after the two incidents at issue here.

9 E. In all other respects, plaintiff's motion to compel is denied.

10 3. The discovery deadline is extended from July 6, 2018, to September 6, 2018, solely for  
11 the purposes of the discovery identified in this order. Defendant shall respond to such discovery  
12 within thirty days.

13 4. The pretrial motions deadline is continued from September 28, 2018, to December 6,  
14 2018.

15 5. Plaintiff's duplicate motions (ECF Nos. 59 & 60) are denied.

16 6. Plaintiff's motion to allow plaintiff to keep DVD's on his person (ECF No. 64) is  
17 denied.

18 7. Counsel for defendant shall coordinate with the litigation coordinator at HDSP to  
19 arrange a time for plaintiff to review, within the next thirty days, the two DVDs and to allow  
20 plaintiff to make notes during such review.

21 8. Plaintiff's motion to allow two addresses (ECF No. 65) is denied.

22 9. Plaintiff's second amended complaint (ECF No. 67) is retained in the court file, but  
23 disregarded.

24 10. Plaintiff's motion for relief from copy service (ECF No. 68) is partially granted.

25 Dated: June 28, 2018

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28 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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