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4 **IN THE UNITED STATES DISTRICT COURT**
5 **FOR THE DISTRICT OF ARIZONA**
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7 Coty Travis Waters,
8 Plaintiff,
9 v.
10 J. Rhynard, et al.,
11 Defendants.

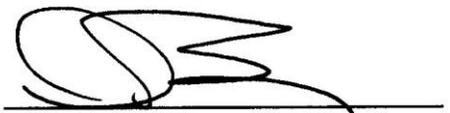
No. CV-20-00125-TUC-DCB

ORDER

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13 Defendants have moved to file a pre-answer Motion for Summary Judgment as to
14 Exhaustion. The Court has instead ordered the Defendant to answer or otherwise respond
15 to the Complaint. (Order (Doc. 13)). Subsequently, the Defendant shall be afforded an
16 opportunity to file a Motion for Summary Judgment related to the issue of exhaustion prior
17 to completing discovery. *See Albino v. Baca*, 747 F.3d 1162, 1171 (9th Cir. 2014)
18 (comparing and contrasting unenumerated 12b motions and summary judgment disposition
19 of exhaustion question and directing courts to dispose of exhaustion issues by summary
20 judgment, with court resolving related questions of fact early in litigation).

21 IT IS ORDERED that the Motion for Leave to File a Motion for Summary Judgment
22 (Doc. 22) is DENIED.

23 Dated this 11th day of September, 2020.

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27 David C. Bury
28 United States District Judge