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

MANUEL TAMAYO TORRES,

Plaintiff,

vs.

MIKE EVANS, ET AL.,

Defendants.

No. CV 1-08-00748-FRZ

ORDER

Pending before the Court is Defendants’ Motion to Dismiss (Doc. 16) pursuant to Rule 12(b) of the Federal Rules of Civil Procedure for failure to exhaust prison administrative remedies as required by 42 U.S.C. § 1997e(a).

The Court provided Plaintiff with the required notice pursuant to Wyatt v. Terhune, 315 F.3d 1108, 1120 n.14 (9th Cir. 2003), advising Plaintiff, in relevant part, that if he failed to submit evidence in opposition to the motion, demonstrating that all available administrative remedies were exhausted and that no administrative remedies were available, the claims addressed in the motion will be dismissed without a trial; and furthermore, failure to respond to Defendants’ motion to dismiss may be deemed as a consent to the granting of the motion without further notice and judgment may be entered dismissing this action without prejudice. *See Brydges v. Lewis*, 18 F.3d 651 (9th Cir. 1994).

Plaintiff failed to file a response in opposition.

Based on the foregoing,

1 IT IS ORDERED that Defendants' Motion to Dismiss (Doc. 16) is deemed submitted
2 and is hereby GRANTED;

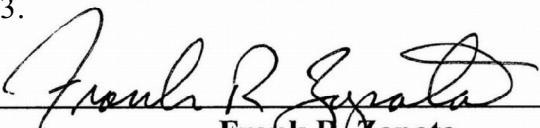
3 IT IS FURTHER ORDERED that all remaining claims at issue against remaining
4 Defendants Snyder, Pool and Elier are DISMISSED without prejudice;

5 IT IS FURTHER ORDERED that all other matters are denied as moot;

6 IT IS FURTHER ORDERED that the Clerk of Court enter judgment accordingly.

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DATED this 30th day of May, 2013.



Frank R. Zapata
Senior United States District Judge