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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

GEORGE H. ROBINSON,  
Plaintiff,  
v.

CASE NO. 1:08-cv-01380-AWI-SKO PC  
ORDER PARTIALLY GRANTING MOTION  
(Doc. 76)

D. ADAMS, et al.,  
Defendants.

Plaintiff George H. Robinson (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On September 15, 2010, Plaintiff filed a motion requesting that the Court strike Defendants' motion for summary judgment from the record, or in the alternative, grant Plaintiff an extension of time to file an opposition to Defendants' motion for summary judgment. (Doc. #76.)

Plaintiff requests that the Court strike Defendants' motion for summary judgment because Defendants' arguments in support of their motion are without merit and are based on false evidence. Defendants filed a dispositive motion on the question whether Plaintiff exhausted his administrative remedies prior to filing suit. Plaintiff argues that Defendants' motion is untimely because it was filed after the deadline for filing dispositive motions on the issue of exhaustion.

The Court will not strike Defendants' motion based solely on Plaintiff’s allegations that the motion lacks merit or because the motion is untimely. To the extent that Defendants' motion should be denied, Plaintiff must set forth his arguments in an opposition to Defendants' motion. Therefore, rather than striking the motion, the Court will grant Plaintiff an extension of time to file an

1 opposition to Defendants' motion for summary judgment.

2 Accordingly, it is HEREBY ORDERED that Plaintiff's September 15, 2010, motion is  
3 PARTIALLY GRANTED:

- 4 1. Plaintiff's request to strike Defendants' motion for summary judgment is DENIED;
- 5 and
- 6 2. Plaintiff's request for an extension of time to file an opposition to Defendants' motion  
7 for summary judgment is GRANTED. Plaintiff's opposition shall be due within  
8 thirty (30) days of the date of service of this order.

9  
10 IT IS SO ORDERED.

11 **Dated:** September 27, 2010

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE