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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

TED KEENER ERNST,

Plaintiff,

v.

MATTHEW CATE, et al.,

Defendants.

CASE NO. 1:08-cv-01940-GSA PC

ORDER VACATING HEARING ON MOTION  
TO DISMISS SET FOR MARCH 27, 2009, AT  
9:30 A.M. IN COURTROOM 10

(Doc. 9)

Opposition Deadline: 03/13/2009

Reply Deadline: 03/20/2009

This is a civil action brought by Plaintiff Ted Keener Ernst (“Plaintiff”) against Defendant Matthew Cate (“Defendant”), Director of the California Department of Corrections and Rehabilitation. Plaintiff alleges claims for relief under California tort law and 42 U.S.C. § 1983. On January 30, 2009, Defendant filed a motion to dismiss for failure to exhaust administrative remedies and for failure to state a claim. Fed. R. Civ. P. 12(b). On February 18, 2009, Defendant filed an amended notice setting the motion for hearing before the undersigned on March 27, 2009, at 9:30 a.m. in Courtroom 10.

Pursuant to Local Rule 78-230(h), the hearing is HEREBY VACATED and the motion will be submitted upon the record. Plaintiff’s opposition is due on or before March 13, 2009, and Defendant’s reply is due on or before March 20, 2009.

IT IS SO ORDERED.

Dated: February 19, 2009

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE