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

KELVIN ALLEN,

Plaintiff,

v.

MEYER, et al.,

Defendants.

Case No. 1:09-cv-00729 DLB PC

ORDER VACATING JUDGMENT  
(Document 36)

ORDER REQUIRING DEFENDANTS TO  
FILE A RESPONSE TO FIRST AMENDED  
COMPLAINT

Plaintiff Kelvin Allen (“Plaintiff”) is a California state prisoner proceeding in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff is represented by counsel for the limited purpose of resolving the issue of exhaustion of administrative remedies.

On June 20, 2014, the Ninth Circuit Court of Appeals remanded the action to this Court with instructions to vacate the July 1, 2011, judgment. Accordingly, the judgment is VACATED.

The Court further ORDERS Defendants to file a response to the First Amended Complaint within thirty (30) days of the date of service of this order.<sup>1</sup>

IT IS SO ORDERED.

Dated: July 24, 2014

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup> The Ninth Circuit recently determined that an unenumerated Rule 12(b) motion is no longer the proper procedural device for raising the issue of exhaustion. Albino v. Baca, 747 F.3d 1162 (9th Cir. 2014).