

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 TONY HERNANDEZ,) Case No.: 1:10-cv-01064-LJO-SAB (PC)
12 Plaintiff,)
13 v.) ORDER DENYING AS PREMATURE
14 M. MARTINEZ, et al.,) PLAINTIFF'S MOTION TO EXPEDITE TRIAL
15 Defendants.) SETTING PROCEDURES AND DIRECTING
16) CLERK OF COURT TO SEND PLAINTIFF THE
) ORDER RE CONSENT OR REQUEST FOR
) REASSIGNMENT FORM
) [ECF No. 48]
)

17 Plaintiff Tony Hernandez is appearing pro se and in forma pauperis in this civil rights action
18 pursuant to 42 U.S.C. § 1983.

19 This action is proceeding against Defendant Martinez for excessive force in violation of the
20 Eighth Amendment. On February 4, 2015, Defendant Martinez filed an answer to the complaint. On
21 February 5, 2015, the Court issued a discovery and scheduling order, along with notice of the Court's
22 expedited trial setting procedures upon consent of all parties. (ECF No. 47.)

23 On April 22, 2015, Plaintiff filed a motion to expedite the trial setting procedures, along with a
24 motion for summary judgment. Defendant subsequently filed a motion for summary judgment on
25 May 5, 2015.

26 Plaintiff is advised that the Court cannot implement the expedited trial proceedings unless and
27 until *all* parties consent to magistrate judge jurisdiction. To date, Defendants have not yet consented
28 to magistrate judge jurisdiction. Based on Plaintiff's representation that he wishes to consent to

1 magistrate judge jurisdiction, the Court will direct the Clerk of Court to send Plaintiff the order re
2 consent or request for reassignment for Plaintiff to complete and return to the Court.

3 Based on the foregoing, it is HEREBY ORDERED that:

- 4 1. Plaintiff's motion to implement the expedited trial setting procedures is DENIED as
5 premature; and
6 2. The Clerk of Court shall send Plaintiff the order re consent or request for assignment.

7
8 IT IS SO ORDERED.

9 Dated: May 8, 2015


UNITED STATES MAGISTRATE JUDGE