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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CESAR ENCISO,

Case No. 1:12-cv-00924-LJO-SKO (PC)

Plaintiff,

ORDER REQUIRING PLAINTIFF TO FILE
OPPOSITION OR STATEMENT OF NON-
OPPOSITION TO MOTION FOR
SUMMARY JUDGMENT

v.

DR. MOON, et al.,

(Doc. 45)

Defendants.

_____ /

Plaintiff Cesar Enciso, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 7, 2012. This action is proceeding against Defendants Moon, Alcantar,¹ Silva, Doe 1, and Doe 3 for violation of the Eighth Amendment of the United States Constitution and for negligence under California law. Plaintiff’s claims arise of the denial of adequate medical treatment at North Kern State Prison in Delano, California.

On May 12, 2014, Defendants Moon and Alcantar filed a motion for summary judgment for failure to exhaust the administrative remedies.² 42 U.S.C. § 1997e(a); Fed. R. Civ. P. 56(a); *Albino v. Baca*, ___ F.3d ___, ___, No. 10-55702, 2014 WL 1317141 (9th Cir. Apr. 3, 2014) (en

¹ Identified in the complaint as Alcator.

² The motion was accompanied by the requisite contemporaneous notice of the requirements for opposing a motion for summary judgment. *Woods v. Carey*, 684 F.3d 934, 938-41 (9th Cir. 2012).

1 banc) (failure to exhaust should be raised in a summary judgment motion). Accordingly, it is
2 HEREBY ORDERED that:

- 3 1. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file an
4 opposition or a statement of non-opposition to the motion; and
- 5 2. **If Plaintiff fails to file an opposition or a statement of non-opposition, this**
6 **action will be dismissed for failure to obey a court order and failure to**
7 **prosecute.**

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9 IT IS SO ORDERED.

10 Dated: May 13, 2014

11 /s/ Sheila K. Oberto
12 UNITED STATES MAGISTRATE JUDGE
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