IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

BRYAN DENTON, **Plaintiff,** **v.** **OFFICER PULIDO, et al.,** **Defendants.**	**1:13-CV-0017 AWI BAM** **ORDER ON PLAINTIFF'S MOTION** (Doc. No. 3)

Plaintiff Bryan Denton ("Plaintiff") is a prisoner in the custody of the California Department of Corrections and Rehabilitation ("CDCR"). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On January 4, 2013, Plaintiff filed a document entitled, "Notice of Motion To Request A Exseption [sic] From The 11th Amendment: For Off Pulido To Be Placed Under Individual Capacity Status." See Doc. No. 3.

A review of Plaintiff's motion shows that Plaintiff is requesting discovery and clarifying that he is bringing suit against Defendant Pulido in Pulido's individual capacity. See id. Plaintiff has been granted in forma pauperis status, but his complaint has yet to be screened. Because Plaintiff's complaint has yet to be screened, there has been no determination concerning the validity of any claims alleged against Defendant Pulido. Further, until the complaint has been screened, Plaintiff's request for discovery is premature.

In order to resolve Plaintiff's motion, the Court will deny any requests for discovery as premature. This denial will be without prejudice to refiling a motion for discovery if it is

determined that Plaintiff has stated viable claims in his complaint. Further, the Court will refer Plaintiff's complaint to the Magistrate Judge for screening with the understanding/clarification that Plaintiff is proceeding against Defendant Pulido in Pulido's individual capacity.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's request for discovery is DENIED without prejudice as premature;
2. Plaintiff's complaint shall be construed as alleging claims against Defendant Pulido in Pulido's individual capacity; and
3. This matter is referred to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Dated: September 19, 2013

SENIOR DISTRICT JUDGE