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8	UNITED STA	TES DISTRICT COURT
9	EASTERN DISTRICT OF CALIFORNIA	
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11	LONNIE LEE POSLOF, Sr.,) Case No.: 1:13-cv-01935-AWI-SAB (PC)
12	Plaintiff,))) ORDER DENYING, WITHOUT PREJUDICE,
13	v.	 PLAINTIFF'S MOTION TO ENTER POST FILING EVIDENCE OF ADMINISTRATIVE
14	CDCR, et al.,) REMEDIES
15	Defendants.) [ECF No. 40]
16)
17	Plaintiff Lonnie Lee Poslof, Sr. is appearing pro se in this civil rights action pursuant to 42	
18	U.S.C. § 1983.	
19	On March 13, 2015, the Court directed the United States marshal to serve Defendant Jeffrey	
20	Beard with the summons and amended complaint. (ECF No. 38.)	
21	Now pending before the Court is Plain	tiff's motion to enter post filing evidence, filed May 8,
22	2015. Plaintiff seeks to file evidence of the administrative remedies. Plaintiff is correct that the	
23	Prison Litigation Reform Act ("PLRA") provides, "No action shall be brought with respect to	
24	conditions of confinement under [42 U.S.C. §	1983], or any other Federal law, by a prisoner confined
25	in any jail, prison, or other correctional facility until such administrative remedies as are available are	
26	exhausted." 42 U.S.C. § 1997e(a). However, it is the Defendant, not Plaintiff, who bears the burden	
27	of proving Plaintiff failed to exhaust available administrative remedies, <u>Jones v. Bock</u> , 549 U.S. 199,	
28	216 (2007), which is raised by way of motion	for summary judgment, <u>Albino v. Baca</u> , 697 F.3d 1023,

1	1031 (9th Cir. 2012). In this instance, Defendant has not yet been served and had not made an	
2	appearance in this action, and the issue of exhaustion of administrative remedies is presently not in	
3	dispute. If and when a motion for summary judgment is filed, Plaintiff may submit any evidence to	
4	demonstrate exhaustion of the administrative remedies at that time. Accordingly, Plaintiff's motion to	
5	submit evidence of the administrative remedies is DENIED, without prejudice.	
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7	IT IS SO ORDERED.	
8	Dated: May 12, 2015	
9	UNITED STATES MAGISTRATE JUDGE	
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