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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 FELIPE GARCIA,

12 Plaintiff,

13 v.

14 J. HOBMEIER, et al.,

15 Defendants.
16

Case No. 1:14-cv-00625-LJO-SAB (PC)

ORDER GRANTING DEFENDANTS'
REQUEST FOR LEAVE TO TAKE
PLAINTIFF'S DEPOSITION ON THE
ISSUE OF EXHAUSTION

(ECF No. 64)

17 Plaintiff Felipe Garcia is appearing pro se and in forma pauperis in a civil rights action
18 pursuant to 42 U.S.C. § 1983.

19 On September 14, 2017, Defendants filed a request for leave to take Plaintiff's deposition
20 on the issue of exhaustion. (ECF No. 64.)

21 On October 19, 2016, Defendants filed a motion for summary judgment for failure to
22 exhaust administrative remedies. On September 5, 2017, the assigned district judge issued an
23 order amending the order adopting findings and recommendations, denying Defendants' motion
24 for summary judgment, and referring the matter to the undersigned for the purpose of setting and
25 conducting an evidentiary hearing on the issue of exhaustion.

26 On September 6, 2017, the undersigned set the matter for an evidentiary hearing to decide
27 the disputed issues of fact relating to the exhaustion of Plaintiff's claims. The hearing is set for
28 Wednesday, October 25, 2017, at 1:00 p.m. The Court also ordered that the parties confer

1 regarding the witnesses to be called and the evidence to be presented at the hearing no later than
2 October 11, 2017, that defense counsel file a statement setting forth the witnesses to be called
3 and the documents to be presented at the hearing no later than October 18, 2017, and that the
4 original and three copies of all exhibits, along with exhibit lists, be submitted no later than
5 October 18, 2017.

6 Having reviewed Defendants' request, the Court shall grant Defendants leave to take the
7 deposition of Plaintiff on the issue of exhaustion.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The Court grants Defendants leave to take the deposition of Plaintiff on the issue
10 of exhaustion;
- 11 2. The deposition of Plaintiff shall be completed by October 18, 2017, and any
12 deposition transcript that Defendants intend to use at the evidentiary hearing shall
13 be submitted by October 18, 2017; and
- 14 3. The taking of Plaintiff's deposition on the issue of exhaustion will not preclude
15 Defendants from deposing Plaintiff and propounding other forms of discovery on
16 other issues in the case should this case proceed to general discovery on the merits
17 of the case.

18
19 IT IS SO ORDERED.

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21 Dated: September 15, 2017


UNITED STATES MAGISTRATE JUDGE