1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 CHARLES W. WINDHAM, Case No. 1:14-cv-01636-DAD-BAM (PC) 12 Plaintiff. ORDER SETTING TELEPHONIC CONFERENCE REGARDING SETTING OF 13 v. AN EVIDENTIARY HEARING 14 Date: Wednesday, March 21, 2018 MARIN, et al., Time: 11:00 a.m. 15 Defendants. 16 17 Plaintiff Charles W. Windham ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on 18 19 Plaintiff's Eighth Amendment claims of excessive use of force against Defendants Marin, Uribe, 20 Rasley, Contreras, Capano, and Rubio, and for deliberate indifference to serious medical needs 21 against Defendants Navarro, Morales, Marin, and Shiver. 22 On March 7, 2018, the assigned District Judge adopted the pending findings and recommendations recommending that Defendants' motion for summary judgment on the grounds 23 24 that Plaintiff had failed to exhaust his administrative remedies prior to filing suit be denied without prejudice, subject to an evidentiary hearing being held in order to resolve factual disputes 25 26 concerning exhaustion. (ECF No. 138.) 27 Accordingly, the Court will set a telephonic conference regarding the setting of an Albino 28 evidentiary hearing. See Albino v. Baca, 747 F.3d 1162, 1170 (9th Cir. 2014). The parties

should also be prepared to discuss the procedures and scope of the evidentiary hearing. Based on the foregoing, IT IS HEREBY ORDERED that this matter is set for a telephonic conference on Wednesday, March 21, 2018, at 11:00 a.m. before the undersigned. The parties shall appear telephonically by using the following dial-in number and passcode at the time set for the hearing: dial-in number 1-877-411-9748; passcode 3190866. Counsel for Defendants is required to arrange for Plaintiff's participation by contacting the litigation coordinator at the institution where Plaintiff is housed. IT IS SO ORDERED. /s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE Dated: March 12, 2018