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

GUSTAVO TORRES,

Plaintiff,

v.

G. ARELLANO, et al.,

Defendants.

Case No. 1:15-cv-00575-DLB (PC)
ORDER GRANTING DEFENDANTS' EX PARTE REQUEST FOR LEAVE TO FILE PRE-ANSWER MOTION FOR SUMMARY JUDGMENT
(Document 22)

Defendants G. Arellano and R. Montanez (“Defendants”) have filed an *ex parte* Application for leave to file a pre-answer motion for summary judgment based on failure to exhaust administrative remedies and for an extension of time in which to file their response to the Complaint until after adjudication of their motion for summary judgment. Having considered the Application, the Court finds good cause to **GRANT** the request.

Accordingly, **IT IS HEREBY ORDERED THAT:**

1. Within forty-five days of the date of this Order, Defendants shall file and serve a motion for summary judgment exclusively on the issue of whether Plaintiff Gustavo Torres (“Plaintiff”) exhausted his administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a) (hereinafter, “exhaustion motion for summary judgment”);

1 2. Defendants' exhaustion motion for summary judgment shall not preclude Defendants
2 or Plaintiff from filing a motion for summary judgment on the merits of Plaintiff's claims should
3 the case proceed after adjudication of the exhaustion motion for summary judgment; and

4 3. If Defendants' exhaustion motion for summary judgment is denied in whole or in
5 part, Defendants shall respond to any remaining claims—in the form of an answer or a motion to
6 dismiss under Federal Rule of Civil Procedure 12—within fourteen days after the Court issues an
7 order ruling on the exhaustion motion for summary judgment.

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9 IT IS SO ORDERED.

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11 Dated: November 30, 2015

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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