1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 FRANKIE L. GERMANY, Case No.: 1:17-cv-00005-DAD-SAB (PC) 12 Plaintiff, ORDER DENYING PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO FILE AN 13 v. OPPOSITION AND GRANTING EXTENSION OF TIME TO FILE FURTHER OBJECTIONS TO 14 M. COELHO, et al., NOVEMBER 9, 2017 FINDINGS AND RECOMMENDATIONS 15 Defendants. 16 [ECF No. 36] Plaintiff Frankie L. Germany is appearing pro se and in forma pauperis in this civil rights 17 18 action pursuant to 42 U.S.C. § 1983. Currently before the Court is Plaintiff's motion for an extension of time to file an opposition to 19 20 Defendants' motion for summary judgment, filed November 29, 2017. 21 On September 11, 2017, Defendants filed an answer to the complaint. On September 13, 2017, 22 the Court issued the discovery and scheduling order. 23 On September 28, 2017, Defendants filed the instant motion for summary judgment for failure 24 to exhaust the administrative remedies. Plaintiff did not file an opposition within twenty-one days the date of service of the motion. Local Rule 230(1). Therefore, on November 9, 2017, the undersigned 25 26 issued Findings and Recommendations recommending that Defendants' exhaustion-related motion for 27 summary judgment be granted and the action be dismissed, without prejudice. (ECF No. 31.)

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On November 29, 2017, Plaintiff filed objections and a motion for an extension of time to file an opposition to Defendants' motion for summary judgment. (ECF Nos. 33, 36.)

Plaintiff indicates that his deadline to file an opposition does not expire until December 13, 2017, and the Court prematurely issued the November 9, 2017 Findings and Recommendations. Plaintiff is mistaken. As stated in the Court's January 4, 2017, first informational order, Local Rule 230(*l*) sets out the schedule for briefing motions. (ECF No. 3, Order at 3:8.) Pursuant to Local Rule 230(l), any opposition to the granting of a motion shall be filed within twenty-one days after the date the motion was served. Local Rule 230(*l*). The deadlines set forth in the Court's September 13, 2017 scheduling order provided the deadlines for the filing of initial dispositive motions, not the time for filing oppositions thereto. (ECF No. 22.) Thus, Plaintiff's opposition to Defendants' September 28, 2017, motion for summary judgment was due on or before October 19, 2017. Therefore, Plaintiff's request for an extension of time to file an opposition shall be denied as untimely. However, in the interest of justice, the Court will grant Plaintiff thirty (30) days from the date of service of this order to file further objections to the November 9, 2017 Findings and Recommendations.

Based on the foregoing, it is HEREBY ORDERED that:

- 1. Plaintiff's motion for extension of time to file an opposition to Defendants' September 28, 2017, motion for summary judgment is denied; and
- 2. Plaintiff is granted thirty (30) days from the date of service of this order to file further objections to the Court's November 9, 2017 Findings and Recommendations.

IT IS SO ORDERED.

Dated: **December 6, 2017**

UNITED STATES MAGISTRATE JUDGE