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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

LENIN GARCIA,  Plaintiff,  v.  E. MORENO, et al.,  Defendants.	) Case No.: 1:18-cv-00014-DAD-SAB (PC) ) ) ) ORDER VACATING EVIDENTIARY HEARING ) SET FOR JANUARY 23, 2019, TO BE ) RESCHEDULED IF AND WHEN THE FINAL ) ORDER ADDRESSING THE FINDINGS AND ) RECOMMENDATIONS IS ISSUED ) ) [ECF No. 43] ) ) )
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Plaintiff Lenin Garcia is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

On November 1, 2018, the undersigned Findings and Recommendations recommending that Defendants’ motion for summary judgment for failure to exhaust the administrative remedies be denied, without prejudice. (Doc. No. 39.) The Court noted that Defendants could file a request for an evidentiary hearing to resolve the disputed factual issues regarding exhaustion. (Id.)

On November 15, 2018, Plaintiff filed objections to the Findings and Recommendations.

On November 29, 2018, Defendants filed a response to Plaintiff’s objections and a motion for an evidentiary hearing. Defendants set the evidentiary hearing for January 26, 2019, at 10:00 a.m. before the undersigned.

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1           Because the Findings and Recommendations have not yet been adopted by the assigned  
2 District Judge, the setting of an evidentiary hearing is premature and the January 26, 2019, date is  
3 **HEREBY VACATED** to be rescheduled if the Findings and Recommendations are adopted in full.  
4 See Local Rule 304(f); Fed. R. Civ. P. 72(b)(3).

5  
6 IT IS SO ORDERED.

7 Dated: **January 8, 2019**



UNITED STATES MAGISTRATE JUDGE