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

WILLIAM THOMAS COATS,

No. CIV S-09-1300-CMK-P

Plaintiff,

vs.

ORDER

MICHAEL FOX,

Defendant.

\_\_\_\_\_ /

Plaintiff, a state prisoner proceeding pro se, brought this civil rights action pursuant to 42 U.S.C. § 1983. Pursuant to the written consent of all parties, this case is before the undersigned as the presiding judge for all purposes, including entry of final judgment. See 28 U.S.C. § 636(c).

Plaintiff originally filed this action in May 2009, naming several defendants. The court found service appropriate for defendant Fox, and authorized service in November 2009. Other defendants were dismissed for failure to state a claim, and the action proceeded against defendant Fox only. In March 2010, defendant Fox filed a motion to dismiss for plaintiff's failure to exhaust his administrative remedies. The court granted the motion, and denied plaintiff's motion for reconsideration, finding plaintiff did not exhaust his administrative

1 remedies because he was unsatisfied with the results of his prison grievance, even though the  
2 grievance was granted at the first level of review, and he failed to appeal the inmate grievance  
3 decision through all three levels of review. Plaintiff then appealed this court's decision and  
4 dismissal. The Ninth Circuit Court of Appeals disagreed with this court's determination, finding  
5 that because plaintiff's grievance was "fully granted" at the first level of review, and that plaintiff  
6 was satisfied with that determination, he had thereby exhausted his administrative remedies. See  
7 Harvey v. Jordan, 605 F.3d 681, 685 (9th Cir. 2010). The Ninth Circuit thus reversed this court's  
8 decision, and remanded for further proceedings on plaintiff's claims against defendant Fox.

9           The decision of the Ninth Circuit is essentially a denial of defendant's motion to  
10 dismiss. As such, defendant Fox will now be required to file an answer to plaintiff's complaint  
11 (Doc. 1).

12           Accordingly, IT IS HEREBY ORDERED that defendant Fox shall file an answer  
13 to plaintiff's complaint within 30 days of the date of this order.

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15 DATED: October 29, 2012

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17 **CRAIG M. KELLISON**  
18 UNITED STATES MAGISTRATE JUDGE  
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