

1 administrative procedures to address plaintiff's claims. See Cal. Code Regs. tit. 15, §§ 3084.1-
2 3084.7. Administrative procedures generally are exhausted once a plaintiff has received a
3 "Director's Level Decision," or third level review, with respect to his issues or claims. Cal. Code
4 Regs. tit. 15, § 3084.5.

5 Plaintiff's complaint was signed by plaintiff on January 24, 2013, the day he alleges he
6 was subjected to excessive force by defendant. The complaint arrived in this court on February 5,
7 2013. In light of these facts, plaintiff could not have exhausted administrative remedies with
8 respect to his claim against defendant before bringing this action. Accordingly, this action must
9 be dismissed.

10 In accordance with the above, IT IS HEREBY RECOMMENDED that:

- 11 1. Defendant Hientschell's motion to dismiss (ECF No. 22) be granted; and
- 12 2. This action be dismissed without prejudice for failure to exhaust administrative
13 remedies prior to bringing suit.

14 These findings and recommendations are submitted to the United States District Judge
15 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
16 after being served with these findings and recommendations, any party may file written
17 objections with the court and serve a copy on all parties. Such a document should be captioned
18 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
19 objections shall be filed and served within fourteen days after service of the objections. The
20 parties are advised that failure to file objections within the specified time may waive the right to
21 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

22 Dated: November 26, 2013

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25 CAROLYN K. DELANEY
26 UNITED STATES MAGISTRATE JUDGE