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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LYNNARD SMITH, No. C 07-4089 JSW (PR)

Plaintiff

**ORDER PROVIDING
PLAINTIFF NOTICE AND
WARNING; SCHEDULING
SUPPLEMENTAL BRIEFING**

STEVEN G. DAVIS,

Defendants.

14 Plaintiff, a California prisoner pro se, filed this civil rights action under 42 U.S.C. §
15 1983. Defendants have filed a motion to dismiss in which they argue that Plaintiff's claims
16 are not exhausted as required by 42 U.S.C. § 1997e. Pursuant to *Woods v. Carey*, No. 09-
17 15548, slip op. 7871, 7884-85 (9th Cir. July 6, 2012), Plaintiff is given the following notice
18 and warning for a second time:

19 **If defendants file an unenumerated motion to dismiss for failure to**
20 **exhaust, they are seeking to have your case dismissed. If the motion is**
21 **granted it will end your case.**

22 **You have the right to present any evidence you may have which tends to**
23 **show that you did exhaust your administrative remedies. Such evidence may be**
24 **in the form of declarations (statements signed under penalty of perjury) or**
25 **authenticated documents, that is, documents accompanied by a declaration**
26 **showing where they came from and why they are authentic, or other sworn**
27 **papers, such as answers to interrogatories or depositions.**

If defendants file a motion to dismiss and it is granted, your case

1 **will be dismissed and there will be no trial.**

2 *See also Wyatt v. Terhune*, 315 F.3d 1108, 1120 n. 4 (9th Cir. 2003).

3 Plaintiff may supplement his opposition to Defendants' motion in light of the
4 foregoing on or before **August 1, 2012**. Defendants shall file a supplemental reply brief
5 within **7 days** of the date any supplemental opposition is filed. If Plaintiff does not
6 supplement his opposition, Defendants' motion will be decided on the papers that have
7 already been filed.

8 **IT IS SO ORDERED.**

9 DATED: July 11, 2012



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11 JEFFREY S. WHITE
12 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LYNNARD A. SMITH,

Case Number: CV07-04089 JSW

Plaintiff,

CERTIFICATE OF SERVICE

STEVEN G. DAVIS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 11, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Lynnhard A. Smith
D89280
GSP Solano
P.O. Box 4000
Vacaville, CA 95696

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Dated: July 11, 2012

Jennifer Ottolini
7/1/1981

Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk