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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GEORGE MARTIN, H-90626,	)	
	)	
Plaintiff(s),	)	No. C 12-3193 CRB (PR)
	)	
v.	)	ORDER
	)	
RANDY GROUNDS, Warden, et al.,	)	(Docket #74 & 78)
	)	
Defendant(s).	)	

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On February 14, 2014, defendants filed a dispositive motion consisting of an unenumerated Rule 12(b) motion to dismiss for failure to exhaust available administrative remedies and a Rule 12(b)(6) motion to dismiss for failure to state a claim upon which relief could be granted. The Ninth Circuit subsequently ruled in Albino v. Baca, No. 10-55702, slip op. at 4-5, 12 (9th Cir. Apr. 3, 2014) (en banc), that failure to exhaust available administrative remedies should be brought in a motion for summary judgment in most cases. Defendants accordingly move to convert their unenumerated Rule 12(b) motion to dismiss to a motion for summary judgment under Rule 56. (They also have provided plaintiff with the requisite concurrent Rand warning explaining what plaintiff has to do to ward off summary judgment.)

1 Good cause shown, defendants' motion (docket #74) to convert their  
2 unemeredated 12(b) motion to dismiss to a motion for summary judgment under  
3 Rule 56 is GRANTED. By no later than June 6, 2014, plaintiff shall file an  
4 opposition to defendants' motion to dismiss under Rule 12(b)(6) and for  
5 summary judgment under Rule 56, and defendants shall file a reply to plaintiff's  
6 opposition within 14 days thereafter.

7 By no later than June 6, 2014, plaintiff also shall file a reply to defendants'  
8 opposition to plaintiff's motion for preliminary injunctive relief.

9 In view of the new briefing schedule set above, plaintiff's motion (docket  
10 #78) for an extension of time to file the relevant opposition and reply papers is  
11 DENIED as moot.

12 No further extensions of time will be granted.

13 SO ORDERED.

14 DATED: May 7, 2014

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17 CHARLES R. BREYER  
18 United States District Judge  
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