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E-FILED - 4/21/11

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

KENNETH ADRIAN FULLER,)	No. C 10-2546 RMW (PR)
)	
Plaintiff,)	ORDER GRANTING MOTION
)	FOR LEAVE TO FILE
v.)	AMENDED ANSWER
)	
WILLIAM MARYOWI, et al.,)	
)	(Docket Nos. 60, 65, 69)
Defendants.)	
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Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. On January 31, 2011, defendants Hudson, Frei, Dalley, and McGuiness filed a dispositive motion, as directed by the court. Plaintiff filed his opposition on February 28, 2011. On March 1, 2011, defendants Hudson, Frei, Dalley, and McGuiness filed a motion for leave to file an amended answer, asserting that they wished to plead the affirmative defense of a failure to exhaust. There is no apparent prejudice to plaintiff. Defendants' motion is GRANTED. See Fed. R. Civ. P. 15(a)(2). The Clerk shall file Exhibit C (docket no. 69) as the amended answer for defendants Hudson, Frei, Dalley, and McGuiness.

On March 31, 2011, defendants Dipman, Ortiz, and Shanahan filed a motion for summary judgment. That same day, defendants Hudson, Frei, Dalley, and McGuiness filed an amended motion for summary judgment and motion to dismiss. A review of the motion demonstrates that the defendants included their argument regarding exhaustion in this motion. In

1 light of the newly filed amended answer and amended motion for summary judgment and motion
2 to dismiss, the court vacates defendants' original dispositive motion, filed on January 31, 2011.
3 (Docket No. 60.) Plaintiff is directed to file his opposition to both motions within **thirty (30)**
4 **days** of the filing date of this order.

5 This order terminates docket numbers 60, 65, and 69.

6 IT IS SO ORDERED.

7 DATED: 4/21/11


RONALD M. WHYTE
United States District Judge

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