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

ALFRED ARTHUR SANDOVAL,
Plaintiff,
v.
CORRECTIONAL SGT. D. BARNEBURG,
et al.,
Defendants.

No. C 12-3007 LHK (PR)
FURTHER SCHEDULING
ORDER

Plaintiff, a California state prisoner proceeding *pro se*, filed a civil rights action under 42 U.S.C. § 1983, alleging that correctional officers at Pelican Bay State Prison used excessive force upon him. On June 11, 2013, the Court denied Defendants’ motion to dismiss the action as untimely.

No later than **sixty (60) days** from the date of this order, Defendants shall file a motion for summary judgment or other dispositive motion with respect to the cognizable claim in the complaint. If Defendants elect to file a motion to dismiss on the grounds that Plaintiff failed to exhaust his available administrative remedies as required by 42 U.S.C. § 1997e(a), Defendants shall do so in an unenumerated Rule 12(b) motion pursuant to *Wyatt v. Terhune*, 315 F.3d 1108, 1119-20 (9th Cir. 2003). Plaintiff’s opposition to the dispositive motion shall be filed with the

1 Court and served on Defendants no later than **twenty-eight (28) days** from the date Defendants’
2 motion is filed. Defendants shall file a reply brief no later than **fourteen (14) days** after
3 Plaintiff’s opposition is filed.

4 Any motion for summary judgment shall be supported by adequate factual documentation
5 and shall conform in all respects to Rule 56 of the Federal Rules of Civil Procedure. Defendants
6 are advised that summary judgment cannot be granted, nor qualified immunity found, if material
7 facts are in dispute. If Defendants are of the opinion that this case cannot be resolved by
8 summary judgment, they shall so inform the Court prior to the date the summary judgment
9 motion is due. Plaintiff’s opposition to any motion for summary judgment shall be filed with the
10 Court and served on Defendants no later than **twenty-eight (28) days** from the date Defendants’
11 motion is filed. Defendants shall file a reply brief no later than **fourteen (14) days** after
12 Plaintiff’s opposition is filed.

13 The motion shall be deemed submitted as of the date the reply brief is due. No hearing
14 will be held on the motion unless the Court so orders at a later date. It is Plaintiff’s
15 responsibility to prosecute this case. Plaintiff must keep the Court and all parties informed of
16 any change of address and must comply with the Court’s orders in a timely fashion. Failure to
17 do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule
18 of Civil Procedure 41(b).

19 IT IS SO ORDERED.

20 DATED: 6/13/13

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22 LUCY H. KOH
23 United States District Judge
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