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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

_____	)
GARY J. WINKLER,	)
	)
Plaintiff,	)
	)
vs.	)
	)
GODECKI et al.,	)
	)
Defendants.	)
_____	)

3:13-cv-00711-RCJ-VPC

**ORDER**

This is a prisoner civil rights case under 42 U.S.C. § 1983. After screening and summary judgment, a single claim of excessive force remains for trial. The Court denied summary judgment on the affirmative defense of non-exhaustion, and the remaining Defendant has requested an evidentiary hearing on that issue. When summary judgment is denied on non-exhaustion, the district judge must then determine the issue sitting as fact-finder at an evidentiary hearing. *Albino v. Baca*, 747 F.3d 1162, 1166 (9th Cir. 2014). Defendant has requested that the parties receive at least 60 days' notice of the hearing.

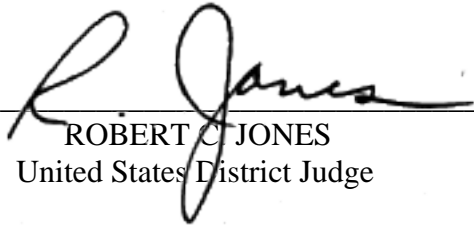
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1 **CONCLUSION**

2 IT IS HEREBY ORDERED that the Motion for Hearing (ECF No. 34) is GRANTED IN  
3 PART, and an evidentiary hearing is SCHEDULED for 10:00 a.m., April 10, 2017 in Courtroom  
4 6 of the Bruce R. Thompson Courthouse in Reno, Nevada.

5 IT IS SO ORDERED.

6 Dated this 17th day of February, 2017.

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10 ROBERT C. JONES  
11 United States District Judge  
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