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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JONATHAN CODY,	)	Case No.: 1:14-cv-01239-DAD-BAM (PC)
Plaintiff,	)	
v.	)	ORDER REGARDING PLAINTIFF’S RESPONSE
	)	TO DEFENDANTS’ MOTION TO MODIFY
JEFFREY BEARD, et al.,	)	SCHEDULING ORDER
Defendants.	)	(ECF No. 31)
	)	
	)	
	)	

The Court has considered Plaintiff Jonathan Cody’s response objecting to Defendants’ motion to modify the scheduling order, (ECF No. 31), and overrules it. The Court’s discovery and scheduling order contemplates that a motion for summary judgment for failure to exhaust will be filed separately from other dispositive pre-trial motions. “Exhaustion should be decided, if feasible, before reaching the merits of a prisoner’s claim.” Albino v. Baca, 747 F.3d 1162, 1170 (9th Cir. 2014), cert. denied sub nom. Scott v. Albino, 135 S. Ct. 403, 190 L. Ed. 2d 307 (2014). Thus, it is proper for Defendants to bring a separate motion for summary judgment on the merits after the issue of exhaustion is determined.

Second, to Plaintiff’s point that Defendants should be required to file a motion directed at the claim that is not affected by the pending motion regarding exhaustion of administrative remedies, the Court disagrees. As Plaintiff elsewhere admits, “piecemeal, partial, bit-by-bit” motions waste the resources of the Court and parties. Judicial economy is best served by allowing for the district judge to

1 make a determination on exhaustion of administrative remedies, followed by one motion for summary  
2 judgment per party, as appropriate, addressing any and all surviving claims.

3 For these reasons, the Court HEREBY OVERRULES Plaintiff's objections to Defendants'  
4 motion to modify the scheduling order. The dispositive motion deadline is **June 13, 2016**. This  
5 deadline applies to all parties. **Any request for an extension of this deadline must be filed on or**  
6 **before the expiration of that deadline, and will only be granted on a showing of good cause.**

7  
8 IT IS SO ORDERED.

9 Dated: April 20, 2016

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE