UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GLENN S. MARTINEZ CASTRO, Plaintiff, v. UNNAMED DEFENDANTS, et al., Defendants.	Case No.: 1:14-cv-01326-AWI-BAM (PC) ORDER REGARDING DEFENDANT'S MOTION TO STAY (ECF No. 53) ORDER REGARDING DEFENDANT'S MOTION TO MODIFY DISCOVERY AND SCHEDULING ORDER (ECF No. 56.)

I. Introduction

Plaintiff Glenn S. Martinez Castro ("Plaintiff") is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. §1983. This action proceeds on Plaintiff's Second Amended Complaint against Defendant Correctional Officer Elias for excessive force in violation of the Eighth Amendment.

Currently before the Court are (1) Defendant's motion to stay discovery pending resolution of motion for summary judgment on issue of exhaustion, filed May 5, 2016 (ECF No. 53); and (2) Defendant's motion to modify the discovery and scheduling order, filed September 7, 2016 (ECF No. 56). Plaintiff filed no opposition to these motions within the time permitted. Local Rule 230(l). On October 10, 2016 and October 12, 2016, Defendant filed a reply standing on each of the original motions. (ECF No. 58, 60.) The motions are deemed submitted. Local Rule 230(l).

II. Defendant's Motion to Stay and Motion to Modify the Scheduling Order

In Defendant's motion to stay discovery, Defendant seeks a motion to stay discovery pending the resolution of the motion for summary judgment on the issue of exhaustion. (ECF No. 53.) Defense counsel filed a declaration in support stating that they have received merits-based discovery from Plaintiff that does not bear on the motion for summary judgment, and Defendant seeks an order allowing them to delay their response to such discovery pending the outcome of their summary judgment motion.

In Defendant's motion to modify the discovery and scheduling order, Defendant requests that the Court suspend the discovery and dispositive motion deadlines until after a final ruling on Defendant's pending motion for summary judgment on the issue of exhaustion. (ECF No. 56.)

The district court "has broad discretion to stay proceedings as an incident to its power to control its own docket." Clinton v. Jones, 520 U.S. 681, 706 (1997) (citing Landis v. North American Co., 299 U.S. 248, 254 (1936)). The party seeking the stay bears the burden of establishing the need to stay the action. Clinton, 520 U.S. at 708.

Here, the Court finds that Defendants have met the burden of showing good cause to stay all non-exhaustion related discovery in this case, to modify the discovery and dispositive motion deadlines in this matter. Fed. R. Civ. P. 16(b)(4). As Defendants argue, proceeding with discovery that is not related to their potentially dispositive motion will result in unnecessary motion practice, litigation costs, and a waste of judicial resources. Furthermore, concurrently with this order, the undersigned shall issue findings and recommendations regarding Defendant's motion for summary judgment for the failure to exhaust administrative remedies. As a result, a final ruling on that matter is imminent. If Defendants' motion does not resolve this case, Plaintiff will not be prejudiced by a modest delay in proceeding with non-exhaustion related discovery under the circumstances, and deadlines may be set to ensure this matter proceeds to resolution in a speedy manner.

III. Conclusion and Order

Accordingly, it is HEREBY ORDERED that:

1. Defendant's motion to stay discovery pending resolution of motion for summary judgment on issue of exhaustion, filed May 5, 2016 (ECF No. 53), is GRANTED;

2. Defendant's motion to modify the discovery and scheduling order, filed September 7, 2016 (ECF No. 56), is GRANTED;

3. The current deadlines for the completion of discovery and the filing of dispositive motions (other than a motion for summary judgment for failure to exhaust) set forth in the February 10, 2016 scheduling order in this matter are VACATED; and

4. In the event that the case is not resolved on the pending summary judgment motion, the Court will issue an order lifting the stay of discovery and requiring Defendant to respond to Plaintiff's written discovery requests within (45) days from the date of service of that order, and an amended discovery and scheduling order setting forth the deadlines for the completion of discovery and filing deadlines for any further dispositive motions.

IT IS SO ORDERED.

Dated: **March 23, 2017**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE