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## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

VANCE EDWARD JOHNSON,	) Case No.: 1:14-cv-01526-DAD-SAB (PC)
Plaintiff, v. SWEENEY, et al., Defendants.	ORDER DENYING PLAINTIFF'S MOTIONS TO COMPEL, WITHOUT PREJUDICE, TO RENEWAL, IF APPROPRIATE, AFTER THE ISSUE OF EXHAUSTION IS RESOLVED, AND DENYING DEFENDANTS' MOTION FOR EXTENSION OF TIME AS MOOT
	) [ECF Nos. 40, 44, 55]

Plaintiff Vance Edward Johnson is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On January 15, 2016, and January 22, 2016, Plaintiff filed motions to compel discovery. (ECF Nos. 40, 44.) On January 29, 2016, the Court granted Defendants' request to extend the time to respond to Plaintiff's motions to compel until their pending motion for summary judgment relating to exhaustion of the administrative remedies was resolved. (ECF No. 46.)

On July 27, 2016, Defendants' motion for summary judgment was granted in part and denied in part, without prejudice. (ECF No. 53.) All claims and Defendant Hardin were dismissed from the action. (Id.) Sweeney is the sole remaining Defendant, and he was granted thirty days to file a supplemental exhaustion-related motion for summary judgment as to Plaintiff's mail appeal retaliation claim. (Id.)

In his motions to compel, Plaintiff seeks discovery as to the merits of his claims. However, as just stated, the only remaining claim is Plaintiff's mail appeal retaliation claim against Defendant Sweeney-who was granted leave to file a supplemental exhaustion-related motion for summary judgment (due on or before August 29, 2016). Because the issue of exhaustion is still outstanding and must be resolved prior to discovery on the merits, the Court finds the interest of justice will be best served by denying Plaintiff's pending motions to compel, without prejudice, to renewal, if exhaustion of the administrative remedies as to his retaliation claim against Defendant Sweeney is resolved in his favor. In light of this ruling, Defendant's third motion for an extension of time to respond to Plaintiff's motions to compel until after the issue of exhaustion is resolved shall be denied as rendered moot.

Based on the foregoing, it is HEREBY ORDERED that:

- 1. Plaintiff's motions to compel, filed January 15, 2016, and January 22, 2016 (ECF Nos. 40 & 44) are DENIED, without prejudice, to renewal at a later date if appropriate; and
- 2. Defendant's third motion for an extension of time to respond to Plaintiff's motions to compel is DENIED as MOOT.

IT IS SO ORDERED.

Dated: **August 12, 2016** 

UNITED STATES MAGISTRATE JUDGE