

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LANCE WILLIAMS.

Case No. 1:14-cv-01714-DAD-MJS (PC)

Plaintiff.

**ORDER GRANTING DEFENDANTS'  
MOTION TO MODIFY SCHEDULING  
ORDER AS TO DISPOSITIVE MOTION  
DEADLINE**

v.

## WASCO STATE PRISON, et al.,

**(ECF No. 63)**

## Defendants.

## **DISPOSITIVE MOTION DEADLINE STAYED UNTIL 45 DAYS AFTER DISTRICT JUDGE RULES ON ISSUE OF EXHAUSTION**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil

rights action brought pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's first amended complaint against Defendant Salvatore and John Doe 1 for medical indifference in violation of the Eighth Amendment. (ECF No. 10.)

27 On December 21, 2016, this Court issued findings and recommendations to deny  
28 Defendants' motion for summary judgment on exhaustion grounds and set the case for

1 an evidentiary hearing. (ECF No. 55.) On March 17, 2017, the District Judge assigned to  
2 the case adopted the findings and recommendations in full. (ECF No. 69.) Accordingly,  
3 the case was set for a June 23, 2017 evidentiary hearing on the issue of exhaustion.  
4 (ECF No. 70.) However, at the parties' request, that hearing was stayed pending the  
5 results of a settlement conference on August 9, 2017. (ECF Nos. 71 & 72.) That  
6 conference was unsuccessful, and the evidentiary hearing was reset for November 3,  
7 2017. (ECF No. 77.)

8 Pursuant to the scheduling order filed on April 11, 2016, the dispositive motion  
9 deadline was February 21, 2017. (ECF No. 36.) Defendants have moved to modify the  
10 dispositive motion deadline pending the results of the evidentiary hearing. (ECF No. 63.)  
11 Defendants argue that since a substantive motion for summary judgment will only be  
12 necessary if the Court rules in Plaintiff's favor at the evidentiary hearing, the Court should  
13 vacate the current dispositive motion deadline and re-set the deadline to a date after it  
14 rules on the exhaustion issue. (P. & A. in Supp. of Mot. to Modify Sched. Order (ECF No.  
15 63-1.) Plaintiff has not opposed the motion and the time to do so has passed.

16 A Court may modify its scheduling order upon a finding of good cause. Johnson v.  
17 Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). The Court finds good  
18 cause exists to stay the dispositive motion deadline pending resolution of Defendants'  
19 exhaustion motion. Accordingly, Defendants' motion is HEREBY GRANTED. The  
20 dispositive motion deadline, originally set for February 21, 2017, is stayed until **forty-five**  
21 **(45) days after the District Judge rules on the issue of exhaustion.**

22 IT IS SO ORDERED.  
23

24 Dated: September 5, 2017

25 /s/ Michael J. Song  
26 UNITED STATES MAGISTRATE JUDGE  
27  
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