UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DAVID ESTRADA,
 	
        Plaintiff,
 	
    v.
 	
TERESA MACIS, et al.,
 	
        Defendants.
	Case No.: 1:15-cv-01292-AWI-SAB (PC)
	
	ORDER VACATING PROTECTIVE ORDER AND STAY OF MERITS-BASED DISCOVERY, DENYING PLAINTIFF'S MOTIONS TO COMPEL AS PREMATURE, AND ISSUANCE OF AMENDED SCHEDULING ORDER
	
	Deadline to Amend Pleadings: **June 23, 2017**
	Discovery Deadline: **August 25, 2017**
	Dispositive Motion Deadline: **October 27, 2017**
	
	[ECF Nos. 56, 58, 76]

Plaintiff David Estrada is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The original discovery and scheduling order issued on May 4, 2016. However, merits-based discovery was stayed pending resolution of Defendants' motion for summary judgment for Plaintiff's failure to exhaust administrative remedies prior to filing suit. The motion is now fully resolved, and the stay of all merits-based discovery is vacated. Because discovery was stayed, there are outstanding discovery requests and motions to compel to be addressed by Defendants. (See ECF Nos. 53, 56, 58, 76.) Plaintiff's outstanding discovery requests shall be deemed served as of the date of this order and shall be responded to within the forty-five (45) days. In light of the fact that only certain Defendants remain in the action after resolution of the exhaustion-related motion for summary judgment and have not yet filed a response to the discovery requests, Plaintiff's pending motions to compel, ECF Nos. 56, 58, 76, are DENIED as premature and may be re-filed, if necessary.

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Accordingly, pursuant to Federal Rules of Civil Procedure 1, 16, and 26-36, discovery shall proceed as follows:

Discovery Procedures:

1.   Discovery requests shall be served by the parties pursuant to Federal Rule of Civil Procedure 5 and Local Rule 135. Discovery requests and responses shall not be filed with the Court unless required by Local Rules 250.2, 2503 and 250.4.

2.   Responses to written discovery requests shall be due **forty-five (45)** days after the request is first served. Boilerplate objections are disfavored and may be summarily overruled by the Court. Responses to document requests shall include all documents within a party's possession, custody or control. Fed. R. Civ. P. 34(a)(1). Documents are deemed within a party's possession, custody or control if the party has actual possession, custody or control thereof, or the legal right to obtain the property on demand. Amendments to discovery responses served after the filing of and in response to a motion to compel are strongly disfavored, absent good faith. The parties are required to act in good faith during the course of discovery and the failure to do so may result in the payment of expenses pursuant to Federal Rule of Civil Procedure 37(a)(5) or other appropriate sanctions authorized by the Federal Rules of Civil Procedure or the Local Rules.

3.   Pursuant to Federal Rule of Civil Procedure 30(a)(2)(B), Defendant may depose Plaintiff and any other witness confined in a prison upon condition that, at least fourteen (14) days before such a deposition, Defendant serves all parties with the notice required by Federal Rule of Civil Procedure 30(b)(1). Pursuant to Federal Rule of Civil Procedure 30(b)(4), the parties may take any deposition under this section by video conference without a further motion or order of the Court. Nothing herein forecloses a party from bringing a motion for protective order pursuant to Federal Rule of Civil Procedure 26(c)(1) if necessary.

4.   If discovery disputes arise, the parties shall comply with all pertinent rules including Rules 5, 7, 11, 26, and 37 of the Federal Rules of Civil Procedure and Rules 110, 130, 131, 133, 135, 142, 144, and 230(l) of the Local Rules of Practice for the United States District Court, Eastern District of California. A discovery motion that does not comply with applicable rules will be stricken and may result in imposition of sanctions. However, unless otherwise ordered, Local Rule 251 shall

1   not apply, and the requirement set forth in Federal Rules of Civil Procedure 26 and 37 of a good faith

2   conference or attempt to confer with the other party to resolve the dispute shall not apply. Voluntary

3   compliance with this provision of Rules 26 and 37 is encouraged, and if the Court deems it appropriate

4   in any given case, it will reimpose the good faith meet and confer requirement. A moving party

5   should not seek to compel production of documents which are equally available to the moving party,

6   such as documents in plaintiff's central file.

7   **Amendment to Pleadings:**

8   5.   The deadline for amending the pleadings is **June 23, 2017**.

9   **Filing Deadlines:**

10   6.   The deadline for the completion of all discovery, including filing all motions to compel

11   discovery, is **August 25, 2017**. Absent good cause, discovery motions will not be considered if filed

12   after the discovery deadline. Therefore, discovery requests and deposition notices must be served

13   sufficiently in advance of the discovery deadline to permit time for a response and time to prepare and

14   file a motion to compel.

15   8.   The deadline for filing all dispositive motions (other than a motion for summary

16   judgment for failure to exhaust) is **October 27, 2017**.

17   9.   **A request for an extension of a deadline set in this order must be filed on or before**

18   **the expiration of the deadline in question and will only be granted on a showing of good cause.**

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21   IT IS SO ORDERED.

22   Dated: **April 26, 2017**

23   UNITED STATES MAGISTRATE JUDGE

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