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

JOSE A ORTIZ,  
  
Plaintiff,  
  
v.  
  
B. GARZA,  
  
Defendant.

**Case No. 1:15-cv-01370-DAD-JLT (PC)**  
  
**AMENDED DISCOVERY AND SCHEDULING ORDER**  
  
Exhaustion Motion Deadline -- **12/20/2016**  
Deadline to Amend Pleadings -- **01/20/2017**  
Discovery Cut-Off Date -- **02/20/2017**  
Dispositive Motion Deadline -- **07/31/2017**

**The Discovery and Scheduling Order the Court issued on September 20, 2016 is no longer in effect.** Rather, the parties **SHALL** comply with this order:

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

**I. WRITTEN DISCOVERY**

Discovery requests shall be served by the parties pursuant to Federal Rule of Civil Procedure 5 and Local Rule 135 and shall only be filed when required by Local Rules 250.2, 250.3, and 250.4.

The parties are limited to 25 interrogatories as described by Federal Rule of Civil Procedure 33, 25 requests for admission made according to Federal Rule of Civil Procedure 36, and 25 requests to produce made according to Federal Rule of Civil Procedure 34.

Responses to document requests shall include all documents within a party's possession, custody, or control. Federal Rule of Civil Procedure 34(a)(1). Documents are deemed within a party's possession, custody, or control if the party has actual possession, custody, or control

1 thereof, or the legal right to obtain the property on demand. *Allen v. Woodford*, 2007 WL  
2 309945, \*2 (E.D. Cal.2007).

3 Responses to written discovery requests shall be due 45 days after the request is served.  
4 Thus, all discovery requests must be served at least 45 days before the discovery deadline.  
5 Likewise, all motions to compel must be filed on or before the discovery deadline.

6 If disputes arise about a parties' obligation to respond to written requests for discovery,  
7 the parties shall comply with all pertinent rules including Rules 5, 7, 11, 26, and 37 of the Federal  
8 Rules of Civil Procedure and Rules 110, 130, 131, 133, 135, 142, 144, and 230(l) of the Local  
9 Rules of Practice for the United States District Court, Eastern District of California. Unless  
10 otherwise ordered, however, Local Rule 251 and the requirements set forth in Federal Rules of  
11 Civil Procedure 26 and 37—that a party certify he/she has conferred in good faith or attempted to  
12 confer with the opponent in an effort to resolve the dispute prior to seeking court action—shall  
13 not apply. Nevertheless, voluntary compliance with this provision of Rules 26 and 37 is  
14 encouraged.

15 A discovery motion that does not comply with all applicable rules will be stricken and  
16 may result in imposition of sanctions. Further, a motion is not appropriate to compel documents  
17 that are equally available to the moving party. For example, the plaintiff may not file a motion to  
18 compel production of documents contained in the inmate's own central file.

## 19 **II. DEPOSITIONS**

20 Pursuant to Federal Rule of Civil Procedure 30(a)(2)(B), Defendants may depose Plaintiff  
21 and any other witness confined in a prison, by video<sup>1</sup> or in person, provided that, at least 14 days  
22 before such a deposition, Defendants serve all parties with the notice required by Federal Rule of  
23 Civil Procedure 30(b)(1).

24 Disagreement with any directive of security staff at the correctional facility at which the  
25 deposition is scheduled is not a basis for the plaintiff to refuse to answer appropriate questions  
26 and the failure of Plaintiff to attend, be sworn, and answer appropriate questions may result in  
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28 <sup>1</sup> This permission is on the condition that it is consistent with prison policy and the prison has the needed equipment for the video deposition.

1 sanctions, including terminating sanctions as provided in Federal Rule of Civil Procedure 37.

2 **III. SCHEDULE AND DEADLINES**

3 The schedule for this action is as follows:

4 A. The deadline for motions challenging exhaustion of administrative remedies is

5 **December 20, 2016;**

6 B. The deadline for amending the pleadings is **January 20, 2017;**<sup>2</sup>

7 C. The deadline for completion of all discovery, including filing motions to compel, is

8 **February 20, 2017;** and

9 D. The deadline for filing pre-trial dispositive motions is **July 31, 2017.**

10 **IV. EXTENSIONS OF TIME**

11 A request for an extension of any deadline set in this order must be filed at least two  
12 weeks before it expires. **The deadlines set forth above are firm and will only be extended**  
13 **upon a showing of good cause.**

14 **The parties are required to act in good faith during the course of discovery and are**  
15 **reminded that failure to do so may result in the imposition of sanctions.**

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17 IT IS SO ORDERED.

18 Dated: **October 4, 2016**

**/s/ Jennifer L. Thurston**  
19 UNITED STATES MAGISTRATE JUDGE

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28 <sup>2</sup>This date does not allow any party to unilaterally file an amended pleading. Rather, any such amended pleadings must comply with all applicable Federal Rules of Civil Procedure (i.e. Rule 15) and Local Rules (i.e. Local Rule 220).