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

WAYNE BOLTON,  
  
  Plaintiff,  
  
  v.  
  
SODERGRA, et al.,  
  
  Defendants.

**Case No. 1:16-cv-00298-SKO (PC)**  
  
**ORDER STAYING DISCOVERY PENDING  
RULING ON DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**  
  
**(Doc. 43)**

Plaintiff, Wayne Bolton, is a state prisoner proceeding *pro se* and *in forma pauperis* pursuant to 42 U.S.C. § 1983. Defendants filed a motion for summary judgment on May 3, 2018, based on Plaintiff's failure to exhaust his administrative remedies prior to filing suit. (Doc. 34.)

On September 7, 2018, Defendants filed a motion for a protective order to stay discovery pending resolution of their motion for summary judgment. (Doc. 43.) Defendants indicate that two days after Plaintiff requested an extension of time to file an opposition to their motion, Plaintiff served discovery on the merits of his claims, rather than on exhaustion issues. (*Id.*) The Court notes that having been notified of the requirements to oppose the motion for summary judgment, Plaintiff filed an opposition, instead of requesting postponement of consideration of Defendants' motion, to conduct further discovery on the exhaustion issue under Rule 56(d) of the Federal Rules of Civil Procedure. (*See* Doc. 41.)

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Accordingly, it is **HEREBY ORDERED** that the motion for a stay of discovery pending resolution of the motion for summary judgment for failure to exhaust, filed by Defendants on September 9, 2018, (Doc. 34), is **GRANTED** and all discovery is **STAYED** in this action.

IT IS SO ORDERED.

Dated: September 10, 2018

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE