

1 crisis, CDCR has requested that the OAG refrain from scheduling inmate depositions in order to
2 minimize movement of inmates and staff inside the institution and thereby minimize the risk of
3 spreading the virus. This policy remains in place and, combined with Plaintiff's continued refusal
4 to sit for a deposition, prevents Defendants from re-noticing Plaintiff's deposition for the
5 foreseeable future. Defendants argue that they have been diligent in attempting to take Plaintiff's
6 deposition to explore the bases for Plaintiff's claims and whether his failure to exhaust an
7 available administrative remedy is a viable defense, but have been prevented from doing so
8 because of the COVID-19 crisis. Accordingly, Defendants argue that good cause exists to modify
9 the current schedule for discovery and filing dispositive motions and request that the Court extend
10 the discovery deadline by 120 days and the deadline to file dispositive motions by 180 days. (Id.)

11 Plaintiff has not yet had an opportunity to file a response, but the Court finds a response is
12 unnecessary. The motion is deemed submitted. Local Rule 230(1).

13 Having considered the request, the Court finds good cause to grant, in part, the requested
14 extensions of the discovery and dispositive motion deadlines. Fed. R. Civ. P. 16(b)(4).
15 Defendants have worked diligently to meet the deadlines set by the Court for taking Plaintiff's
16 deposition and filing dispositive motions, but those deadlines are no longer feasible due to the
17 circumstances surrounding the COVID-19 outbreak. Although Defendants did not specifically
18 request an extension of the deadline to file motions for summary judgment for failure to exhaust
19 administrative remedies, the Court finds it appropriate to extend this deadline as well, to allow the
20 Court to address this potential issue before reaching the merits of Plaintiff's claims, if applicable.
21 Finally, the Court finds that Plaintiff will not be prejudiced by the extension granted here.

22 Accordingly, IT IS HEREBY ORDERED as follows:

- 23 1. Defendants' motion to modify the scheduling order, (ECF No. 66), is GRANTED IN
24 PART;
- 25 2. The parties are directed to meet and confer, and agree on a date for Plaintiff's
26 deposition, to be taken on or before **September 18, 2020**;
- 27 3. The deadline for completion of all discovery, including Plaintiff's deposition, is
28 extended from May 18, 2020 to **September 18, 2020**;

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- 4. The deadline for filing motions for summary judgment for failure to exhaust administrative remedies is extended from July 6, 2020 to **November 18, 2020**;
- 5. The deadline for filing all dispositive motions (other than a motion for summary judgment for failure to exhaust) is extended from November 6, 2020 to **February 16, 2021**; and
- 6. A request for an extension of a deadline set in this order must be filed on or before the expiration of the deadline in question and will only be granted on a showing of good cause.

IT IS SO ORDERED.

Dated: May 19, 2020

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE