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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

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11 LAWRENCE CHRISTOPHER SMITH,

12 Plaintiff,

13 v.

14 CHANELO, *et al.*,

15 Defendants.

Case No. 1:16-cv-01356-NONE-BAM (PC)

ORDER GRANTING DEFENDANTS' THIRD
MOTION TO MODIFY SCHEDULING
ORDER

(ECF No. 69)

Discovery Deadline: November 2, 2020
Exhaustion Motion Deadline: January 4,
2021
Dispositive Motion Deadline: February 16,
2021

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19 Plaintiff Lawrence Christopher Smith ("Plaintiff") is a state prisoner proceeding *pro se*
20 and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action
21 proceeds on Plaintiff's first amended complaint as to the excessive force claim of March 13, 2013
22 against Defendants Sotelo, Chanelo, Wattree, Hunt, Castro, Gonzalez, Ramirez, and Rodriguez.

23 Pursuant to the Court's May 19, 2020 order granting in part Defendants' second motion to
24 modify the scheduling order, discovery was to be completed by September 18, 2020, exhaustion
25 motions were to be filed by November 18, 2020, and dispositive motions were to be filed by
26 February 16, 2021. (ECF No. 67.)

27 Currently before the Court is Defendants' third motion to modify the scheduling order,
28 filed September 3, 2020. (ECF No. 69.) Defendants state that, as a result of the continuing

1 COVID-19 crisis, Defendants have been prevented from completing Plaintiff's deposition until
2 recently, and there are no available deposition dates prior to the current discovery deadline of
3 September 18, 2020. Defendants have reserved time to take Plaintiff's deposition by video on
4 September 24, 2020, and believe that the deposition could be completed, absent the filing of a
5 motion for protective order or a further outbreak of COVID-19 at Plaintiff's institution, by
6 October 15, 2020. Defendants therefore request that the Court modify the current scheduling
7 order to extend the deadlines for completion of discovery and exhaustion summary judgment
8 motions by forty-five days, and keep the deadline to file non-exhaustion summary judgment
9 motions in place. (Id.)

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

12 Having considered the request, the Court finds good cause to grant, the requested
13 extensions of the discovery and exhaustion motion deadlines. Fed. R. Civ. P. 16(b)(4).
14 Defendants have worked diligently to meet the deadlines set by the Court for taking Plaintiff's
15 deposition and filing dispositive motions, but those deadlines are not feasible due to the
16 circumstances surrounding the COVID-19 outbreak. The Court finds that Plaintiff will not be
17 prejudiced by the extensions granted here.

18 Accordingly, IT IS HEREBY ORDERED as follows:

- 19 1. Defendants' third motion to modify the scheduling order, (ECF No. 69), is
20 GRANTED;
- 21 2. The deadline for completion of all discovery, including Plaintiff's deposition, is
22 extended from September 18, 2020 to **November 2, 2020**;
- 23 3. The deadline for filing motions for summary judgment for failure to exhaust
24 administrative remedies is extended from November 18, 2020 to **January 4, 2021**;
- 25 4. The deadline for filing all dispositive motions (other than a motion for summary
26 judgment for failure to exhaust) remains **February 16, 2021**; and

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5. 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: September 16, 2020

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE