

1 Defendant asserts in support that (1) the pending motion will potentially dispose of the entire case; (2)
2 the Court does not require additional information to decide the pending motion; and (3) the
3 expenditure of resources required to respond to merits-based discovery will be needless if the Court
4 grants Defendant’s motion for summary judgment.

5 The Court is vested with broad discretion to manage discovery. Dichter-Mad Family Partners,
6 LLP v. U.S., 709 F.3d 749, 751 (9th Cir. 2013) (per curiam); Hunt v. Cnty. of Orange, 672 F.3d 606,
7 616 (9th Cir. 2012); Survivor Media, Inc. v. Survivor Prods., 406 F.3d 625, 635 (9th Cir. 2005);
8 Hallett v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002). Pursuant to Rule 26(c)(1), the Court may, for
9 good cause, issue a protective order forbidding or limiting discovery. The avoidance of undue burden
10 or expense is grounds for the issuance of a protective order, Fed. R. Civ. P. 26(c), and a stay of
11 discovery pending resolution of potentially dispositive issues furthers the goal of efficiency for the
12 courts and the litigants, Little v. City of Seattle, 863 F.2d 681, 685 (9th Cir. 1988) (stay of discovery
13 pending resolution of immunity issue).

14 The propriety of delaying discovery on the merits of the {laintiff’s claims pending resolution
15 of an exhaustion motion was explicitly recognized by the Ninth Circuit. Albino v. Baca, 747 F.3d
16 1162, 1170-71 (9th Cir. 2014) (en banc), cert. denied, 135 S.Ct. 403 (2014); see also Gibbs v. Carson,
17 No. C-13-0860 THE (PR), 2014 WL 172187, at *2-3 (N.D. Cal. Jan. 15, 2014). The failure to exhaust
18 is an affirmative defense, and Defendant is entitled to move for judgment on the issue. Albino, 747
19 F.3d at 1166.

20 The Court agrees with Defendant that judicial economy is best served by staying merits-based
21 discovery until after the Court rules on the pending motion for summary judgment for failure to
22 exhaust available administrative remedies. Accordingly, merits-based discovery will be stayed in this
23 matter, and the Court will reset the deadline for conducting merits-based discovery, if necessary, after
24 resolution of the exhaustion-related motion for summary judgment.

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Based on the foregoing, it is HEREBY ORDERED that:

1. Defendant's exhaustion-related motion for summary judgment shall be filed on or before January 30, 2018; and

2. All merits-based discovery is STAYED until the final disposition of Defendant's exhaustion-related motion for summary judgment to be filed on January 30, 2018.

IT IS SO ORDERED.

Dated: January 24, 2018


UNITED STATES MAGISTRATE JUDGE