

1 the exhaustion of affirmative defenses. However, over the past sixty days, counsel has
2 experienced a significantly high workload in other matters that has interfered with his ability to
3 complete the motion and obtain declarations from any necessary witnesses. Counsel requires
4 additional time to complete drafting Defendants' motion for summary judgment, and is also in the
5 process of obtaining a necessary declaration from the CDCR Office of Appeals. A thirty-day
6 extension of time, through October 3, 2023, would allow counsel time to complete the process of
7 completing Defendants' motion. Defendants have not contacted Plaintiffs to request a stipulation
8 to modify the exhaustion deadline, but Defendants do not believe this request will prejudice
9 Plaintiffs or significantly delay the prosecution of this action. Discovery is still open and pending
10 and this will not conflict with the merits-based dispositive motion deadline.

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

13 Having considered the request, the Court finds good cause to grant the requested
14 extension of the exhaustion summary judgment motion deadline. Fed. R. Civ. P. 16(b)(4). The
15 Court finds that Plaintiffs will not be prejudiced by the extension granted here. No other
16 deadlines are extended by this order. Any further requests must be supported by good cause
17 which will be narrowly construed.

18 Accordingly, IT IS HEREBY ORDERED as follows:

- 19 1. Defendants' motion to modify the discovery and scheduling order to extend the
20 deadline to file an exhaustion motion, (ECF No. 67), is GRANTED; and
- 21 2. The deadline for filing motions for summary judgment for failure to exhaust
22 administrative remedies is extended from September 3, 2023 to **October 3, 2023**.

23
24 IT IS SO ORDERED.

25 Dated: September 5, 2023

26 /s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE