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

LAWRENCE CHRISTOPHER SMITH,  
  
  Plaintiff,  
  
  v.  
  
KNOWLTON,  
  
  Defendant.

Case No. 1:18-cv-00851-NONE-BAM (PC)  
  
ORDER GRANTING IN PART  
DEFENDANT’S MOTION FOR  
PROTECTIVE ORDER  
(ECF No. 45)  
  
ORDER GRANTING DEFENDANT’S  
MOTION TO MODIFY THE DISCOVERY  
AND SCHEDULING ORDER NUNC PRO  
TUNC  
(ECF No. 53)

Plaintiff Lawrence Christopher Smith (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Knowlton for excessive force in violation of the Eighth Amendment.

The Court issued a Discovery and Scheduling Order on August 5, 2019. (ECF No. 33.) Pursuant to that order, the deadline for completion of all discovery was set for April 5, 2020, and the deadline for filing dispositive motions is June 15, 2020. (Id.)

On August 23, 2019, Defendant filed a motion for summary judgment on the ground that Plaintiff failed to exhaust administrative remedies. (ECF No. 37.) Following an extension of time, Plaintiff filed his opposition on October 24, 2019, (ECF No. 43), and Defendant filed a reply on October 31, 2019, (ECF No. 44). That motion is pending.

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1           On December 16, 2019, Defendant filed a motion for protective order seeking relief from  
2 the obligation to respond to Plaintiff's November 20, 2019 discovery requests until forty-five  
3 days following the Court's ruling on the pending motion for summary judgment. (ECF No. 45.)  
4 Defendant argues that the pending summary judgment motion, if granted, will be dispositive of  
5 this action, and the motion can be decided without additional discovery. Defendant states that  
6 responses to Plaintiff's request for exhaustion-related discovery have already been provided. (Id.)  
7 Plaintiff filed his opposition on January 15, 2020. (ECF No. 47.) Plaintiff argues that the motion  
8 for protective order should be denied by referencing various other civil actions he has filed, and  
9 because his claim in this action is meritorious. (Id.) Defendant filed a reply on January 23, 2020,  
10 and argues that Plaintiff does not contend that additional discovery will be required for the Court  
11 to rule on the pending exhaustion-based summary judgment motion, and the validity of Plaintiff's  
12 claims alleged against prison officials in other lawsuits are not connected to the litigation of this  
13 case. (ECF No. 49)

14           On April 17, 2020, Defendant filed a motion to modify the discovery and scheduling order  
15 to reset the discovery deadline and the deadline for filing a dispositive motion for summary  
16 judgment. (ECF No. 53.) Defendant argues that the pending motion is dispositive of Plaintiff's  
17 excessive force claim in this action, and therefore Defendant has abstained from taking Plaintiff's  
18 deposition or engaging in any other discovery on the merits of Plaintiff's claim, because it may be  
19 unnecessary if the Court grants the pending summary judgment motion. Defendant argues that  
20 the request will not prejudice Plaintiff because he will also receive additional time to engage in  
21 discovery if this action proceeds to the merits of his claim. Although the discovery deadline  
22 expired on April 6, 2020, Defendant states that it was an oversight that counsel did not file a  
23 motion to modify the Discovery and Scheduling Order prior to the expiration of that deadline.  
24 (Id.) Although Plaintiff has not had an opportunity to respond to Defendant's motion, the Court  
25 finds a response unnecessary.

26           Defendant's motion for protective order and motion to modify the Discovery and  
27 Scheduling Order nunc pro tunc are deemed submitted. Local Rule 230(l).

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