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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH MARPEL,

Plaintiff,

No. 2:11-cv-0387 KJN P

vs.

SAUKHLA, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner, proceeding without counsel and in forma pauperis, in this civil rights action filed pursuant to 42 U.S.C. § 1983. Pending is defendants’ motion for protective order, filed August 26, 2011, pursuant to which defendants request a stay of discovery until this court rules on defendants’ motion to dismiss, which is now fully briefed (as of August 18, 2011). Defendants’ dispositive motion seeks to dismiss this entire action.

The court has wide discretion to issue protective orders. BRS Land Investors v. United States, 596 F.2d 353, 356 (9th Cir. 1979). While “[d]iscovery need not cease during the pendency of a motion to dismiss,” SK Hand Tool Corp. v. Dresser Indust., Inc., 852 F.2d 936, 945 n.11 (7th Cir. 1988), a court may limit discovery under Federal Rule of Civil Procedure (c)(1) “for good cause,” and stay discovery when it is possible that plaintiff may be unable to state a claim for relief. Wood v. McEwen, 644 F.2d 797, 801 (9th Cir. 1981) (citing former Fed.

1 R. Civ. P. 26(c)(4)). Under these circumstances, a United States Magistrate Judge “has broad
2 discretion to stay discovery pending decision on a dispositive motion.” Panola Land Buyers
3 Ass'n v. Shuman, 762 F.2d 1550, 1560 (11th Cir. 1985).

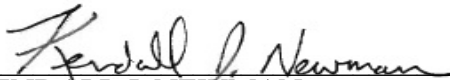
4 Because the pending dispositive motion seeks to dismiss this action in its entirety,
5 the court finds good cause for staying discovery until the dispositive motion has been resolved.
6 This ruling will prevent undue burden or expense by all parties. Defendants are directed to
7 “hold” plaintiff’s discovery requests pending a decision on the merits of their dispositive motion;
8 if the motion is resolved in plaintiff’s favor, he may “renew” his discovery requests with a short
9 letter, rather than re-serve the actual requests.

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. Defendants’ motion for protective order filed August 26, 2011 (Dkt. No. 30) is
12 granted; and

13 2. Discovery is stayed in this action until the court rules on defendants’ pending
14 dispositive motion.

15 DATED: August 29, 2011

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18 KENDALL J. NEWMAN
19 UNITED STATES MAGISTRATE JUDGE

20 marp0387.stay.disc.
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