

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

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRYAN MAZZA,  
Plaintiff,  
v.  
L. AUSTIN, et al.,  
Defendants.

No. 2:14-cv-0874 GEB AC P

ORDER

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, pursues this civil rights action on his claim that defendants were deliberately indifferent to his serious medical needs. This action proceeds against five defendants. Four of the defendants (Austin, Kuersten, Lipson and McCue) are represented by the Office of the California Attorney General (AG); remaining defendant Tan is represented by private counsel.

On August 15, 2017, three of the four defendants represented by the AG (Austin, Kuersten and McCue) filed a motion for summary judgment on the ground that plaintiff failed to exhaust his administrative remedies as to them before commencing this action. See ECF No. 108. The AG defendants now request a stay of further discovery in this action until resolution of their motion for summary judgment. See ECF No. 109 (Amended Motion to Stay). Defendants identify two remaining discovery matters for which they seek a stay: defendant Kuerston’s responses to plaintiff’s interrogatories served July 19, 2017; and plaintiff’s deposition. Defendants contend that defendant Kuerston should not be tasked with responding to plaintiff’s

1 outstanding discovery requests, limited to the merits of this action, because Kuerston may be  
2 dismissed from this action; and that plaintiff's deposition should be postponed until it is clear  
3 which defendants remain in this action.

4 Resolution of this matter does not require briefing by the other parties. Defendants'  
5 motion to stay discovery will be granted in part: the deadline for convening plaintiff's deposition  
6 (as well as the deadline for filing dispositive motions) will be vacated until final resolution of the  
7 pending motion for summary judgment. However, defendant Kuerston will be required to  
8 respond to plaintiff's outstanding discovery requests. Even if defendant Kuerston is dismissed  
9 from this action, defendant's substantive answers to plaintiff's discovery will likely be relevant to  
10 the merits of this case against the remaining defendants. The current deadline for concluding  
11 discovery, August 18, 2017, was extended by the undersigned after three separate discovery  
12 motions were filed by the parties. See ECF No. 106. It is not unreasonable to require Kuerston to  
13 complete the process, for which defendant will be accorded additional time. When defendant  
14 Kuerston serves responses to plaintiff's outstanding discovery requests, all written discovery will  
15 be concluded in this case.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Defendants' amended motion to stay discovery, ECF No. 109, is granted in part.
- 18 2. The deadline for conducting plaintiff's deposition, and the deadline for filing  
19 dispositive motions, are vacated and stayed pending further order of this court.
- 20 3. Defendant Kuerston shall serve responses to plaintiff's outstanding discovery requests  
21 within twenty-one (21) days after the filing date of this order.
- 22 4. Defendants' previously filed motion to stay discovery, ECF No. 107, is denied as  
23 moot.<sup>1</sup>

24 SO ORDERED.

25 DATED: August 16, 2017

26   
27 ALLISON CLAIRE  
28 UNITED STATES MAGISTRATE JUDGE

27 \_\_\_\_\_  
28 <sup>1</sup> The original motion contained a material typographical error and was not withdrawn upon the filing of the amended motion.