

1 Defendants seek to vacate the current discovery and dispositive motions deadlines,
2 including their August 11, 2021 deadline to respond to pending discovery requests, and to re-set
3 the deadlines, as necessary, upon resolution of their pending motion for summary judgment. ECF
4 No. 47. They seek to shorten the time to hear the motion for stay based on the upcoming deadline
5 to respond to discovery requests. ECF No. 48. Plaintiff has opposed the motion to shorten time
6 partly on the ground that he requires time to properly oppose the motion to stay. ECF No. 49.
7 Plaintiff indicates that he intends to oppose the motion to stay on the grounds that he has not had
8 time to clarify his deposition responses related to exhaustion or obtain testimony from prison staff
9 who advised him regarding the appeals process and that he believes that he will prevail at
10 summary judgment. Id. at 3-4.

11 The time for propounding written discovery is closed, see ECF No. 40 at 3, and review of
12 the pending written discovery requests shows that they do not relate to exhaustion, see ECF No.
13 47-2 at 5-97. Additionally, plaintiff is capable of clarifying his deposition responses through a
14 declaration, and his ability to do so would not be hampered by a stay of discovery. However, to
15 the extent plaintiff indicates that discovery should not be stayed because he needs to obtain
16 testimony from prison staff who advised him on the appeal process, the court acknowledges that
17 such discovery would be relevant to the pending motion for summary judgment. Accordingly,
18 the undersigned finds that defendants' motion to stay should be granted except to the extent that
19 plaintiff seeks discovery on matters related to the exhaustion of plaintiff's administrative
20 remedies. See Anderson v. Byrne, 827 F. App'x 643, 644 (9th Cir. 2020) (district court did not
21 abuse discretion by staying merits-based discovery while motion for summary judgment on
22 exhaustion was pending and discovery related to arguments considered at summary judgment was
23 permitted).

24 Accordingly, IT IS HEREBY ORDERED that:

- 25 1. Defendants' motion to stay, ECF No. 47, is GRANTED in part and DENIED in part:
 - 26 a. The motion is GRANTED as to the deadlines for merit-based discovery and
27 dispositive motions. The deadlines in the July 15, 2021 Order (ECF No. 44 at
28 4), including defendants' August 11, 2021 deadline to respond to all pending

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written discovery requests, are VACATED. The deadlines will be re-set, as necessary, upon resolution of the pending motion for summary judgment.

b. The motion is DENIED as to discovery related to plaintiff's exhaustion of administrative remedies. Plaintiff may complete any depositions of individuals on matters related to the exhaustion of plaintiff's administrative remedies by August 31, 2021, with any necessary motions to compel filed by September 13, 2021.

2. The September 8, 2021 hearing on the motion to stay is VACATED.

3. Defendants' application to shorten time for the hearing on their motion to stay, ECF No. 48, is DENIED as moot.

DATED: August 5, 2021



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE