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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 KEITH ADAIR DAVIS,

9 Plaintiff,

10 v.

11 WILLIAM HAYES, et al.,

12 Defendants.

CASE NO. C16-1709-RSM-BAT

**ORDER DENYING MOTIONS FOR
DISCOVERY AND DIRECTING
PARTIES TO CONFER AS
REQUIRED BY RULE 37**

13 Keith Adair Davis moves the Court for an order compelling defendants to produce
14 documents in response to his written requests. Dkts. 55, 61. Defendants oppose the motions
15 arguing Mr. Davis has not complied Fed. R. Civ. P. 37(a), which requires the parties to meet and
16 confer before a discovery motion is filed. Additionally, Mr. Davis seeks additional time for
17 discovery. Dkt. 60. Having considered the pleadings and for the reasons discussed below, the
18 Court **DENIES** plaintiff's discovery motions, Dkts. 55, 61 and **ORDERS** the parties to meet and
19 confer.

20 Before filing a motion to compel discovery, Mr. Davis must make a good faith effort to
21 meet and confer with the allegedly offending party in an effort to resolve any dispute. *See* Local
22 Rules W.D. Wash. LCR 37(a)(1); Fed. R. Civ. P. 37(a)(1). These rules help ensure that parties
23 have an inexpensive and expeditious opportunity to resolve discovery disputes and that only

ORDER DENYING MOTIONS FOR
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TO CONFER AS REQUIRED BY RULE 37 - 1

1 genuine disagreements are brought before the Court. Here there is nothing showing the parties
2 have met and conferred, or even made an attempt to do so. LCR 37(a)(1) provides that a “good
3 faith effort” to confer with a party requires a face-to-face meeting or a telephone.

4 Because Mr. Davis proceeds *pro se*, the Court notes the following. The scope of
5 discovery is limited to what is relevant to the case. Mr. Davis’ original complaint names 47
6 defendants and several claims. The Court dismissed, Dkt. 30, all claims except for the excessive
7 force claims alleged in paragraph 60 of the amended complaint against (1) Defendant Gorman
8 for acts in August 2014; (2) Defendants McKindrey and Bliss in September 2014; and (3)
9 Defendant Elerick in August 2016. Dkt. 20 at 11. Mr. Davis claims Gorman struck and damaged
10 his ear. *Id.* at 12. Mr. Davis also alleges McKindrey and Bliss attacked him in his cell, where
11 McKindrey “landed on top of [Mr. Davis] with his full weight,” causing him intense pain. *Id.* at
12 13. Mr. Davis further alleges that Elerick injured Mr. Davis’ right hand, thumb, small finger, and
13 forearm by smashing it against a metal tray. *Id.*

14 Because the other claims and defendants were dismissed, this case involves a claim of
15 excessive use of force only against the four defendants named above and which occurred in
16 August and September 2014, and August 2016. *Id.* Accordingly, discovery should focus on the
17 excessive force claim against the four defendants.

18 For these reasons, the Court **ORDERS**:

- 19 1) The discovery motions, Dkts. 55, 61 are DENIED without prejudice.
- 20 2) The parties shall meet and confer as required by Rule 37, no later than November
21 24, 2017, and shall file a joint statement regarding whether the discovery dispute has been
22 resolved by November 28, 2017.
- 23 3) If the discovery dispute has not been resolved, the joint statement shall set forth

1 with specificity exactly what matters are in dispute. If the discovery dispute is not resolved, Mr.
2 Davis shall also file a motion for discovery limited to what matters are specifically in dispute by
3 December 4, 2017, and explaining why discovery should be granted. Defendants may respond as
4 allowed under the local rules. The Clerk shall note Mr. Davis' discovery motion for December
5 15, 2017.

6 4) If the discovery dispute has not been resolved, and briefing is required, as noted
7 above, the Court will extend the date by which discovery must be completed.

8 5) The clerk shall provide the parties with a copy of this order.

9 DATED this 9th day of November, 2017.

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12 BRIAN A. TSUCHIDA
13 United States Magistrate Judge
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