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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 JASON JAY VER VALEN,

9 Plaintiff,

No. C11-5058 RBL/KLS

v.

10 HELEN DONATACCI,

ORDER GRANTING MOTION TO STAY  
DISCOVERY

11 Defendant.

12 Pending before the Court is Defendant Helen Donatucci's Motion to Dismiss and Stay  
13 Discovery. ECF No. 12. In this Order, the Court addresses Defendant's motion to stay  
14 discovery. The motion to dismiss is the subject of a separate Report and Recommendation.  
15

16 **BACKGROUND**

17 In her motion for summary judgment, Defendant argues that Plaintiff's claims should be  
18 dismissed because Plaintiff failed to exhaust administrative remedies and has failed to state a  
19 claim upon which relief can be granted. ECF No. 12. Under separate Report and  
20 Recommendation, the undersigned recommends that Defendant's motion to dismiss be granted  
21 on the grounds that Plaintiff failed to exhaust administrative remedies prior to bringing this suit.  
22

23 **DISCUSSION**

24 The court has broad discretionary powers to control discovery. *Little v. City of Seattle*,  
25 863 F.2d 681, 685 (9<sup>th</sup> Cir. 1988). Upon showing of good cause, the court may deny or limit  
26 discovery. Fed. R. Civ. P. 26(c). A court may relieve a party of the burdens of discovery while

ORDER - 1

1 a dispositive motion is pending. *DiMartini v. Ferrin*, 889 F.2d 922 (9<sup>th</sup> Cir. 1989), amended at  
2 906 F.2d 465 (9<sup>th</sup> Cir. 1990) *Rae v. Union Bank*, 725 F.2d 478 (9<sup>th</sup> Cir. 1984).

3 As noted above, the undersigned is recommending to the District Court that Plaintiffs'  
4 claims be dismissed without prejudice for failure to exhaust administrative remedies. Defendant  
5 should not face the burden and expense of responding to discovery as to claims that will be  
6 dismissed if the District Court adopts the Report and Recommendation.  
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8 Accordingly, it is **ORDERED**:

9 (1) Defendant's motion to stay discovery pending resolution of the motion to dismiss  
10 (ECF No. 12) is **GRANTED**.

11 (2) All discovery is **STAYED** pending further order of this Court.

12 (3) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.  
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14 **DATED** this 25th day of July, 2011.

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16 Karen L. Strombom  
17 United States Magistrate Judge  
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