UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ARVELLO L. TUFONO,

Plaintiff,

v.

AMANDEEP DHILLION, et al.,

Defendants.

No. 2:23-cv-2691 DAD SCR P

ORDER

Plaintiff is a county inmate proceeding pro se with a civil rights action under 42 U.S.C. §1983. On August 12, 2024, defendants filed their answer, a motion for summary judgment, and a motion to stay discovery. (ECF Nos. 25, 26, 27.) In their motion for summary judgment, defendants argue that plaintiff failed to exhaust his administrative remedies prior to filing this suit. In their motion to stay discovery, defendants seek a stay of all discovery except discovery related to the issue of exhaustion. Plaintiff has not filed responses to either motion.

Typically, after defendants file an answer, the court issues a Discovery and Scheduling Order which sets a schedule for the litigation and provides plaintiff some information about discovery and dispositive motions. Defendants' motion for summary judgment is therefore premature and this court will not require plaintiff to respond to the motion at this time. This court issues a Discovery and Scheduling Order along with the present order.

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This court will not, however, permit full discovery at this time. Defendants have shown good cause to limit discovery to the issue of exhaustion. This court will grant their motion for a partial stay of discovery.

Plaintiff should review the Discovery and Scheduling Order and defendants' motion for summary judgment to determine whether he requires any discovery from defendants regarding the issue of exhaustion. Plaintiff will be ordered to inform the court within twenty-one days that either (1) he wants to propound discovery regarding the issue of exhaustion, or (2) he does not require discovery in order to file a response to defendants' motion for summary judgment. If plaintiff chooses the first option, then this court will set a deadline for discovery. If plaintiff chooses the second option, then this court will set a deadline for plaintiff to file an opposition to defendants' motion for summary judgment.[1]

Accordingly, IT IS HEREBY ORDERED that

1. Briefing on defendants' motion for summary judgment (ECF No. 26) is stayed until further notice from the court.
2. Defendants' motion to stay all discovery except discovery related to the issue of exhaustion (ECF No. 27) is granted.
3. Within twenty-one days of the date of this order, plaintiff shall file a notice with the court that he wants to do one of the following:
    a. Plaintiff wants to propound discovery regarding the issue of exhaustion; or
    b. Plaintiff does not require discovery in order to respond to the motion for summary judgment.

DATED: October 15, 2024

SEAN C. RIORDAN
UNITED STATES MAGISTRATE JUDGE

[1] If the court denies the motion for summary judgment regarding exhaustion, the parties will be permitted to conduct discovery on the merits of plaintiff's claims and the court will set a deadline for filing merits-based motions for summary judgment.