

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

OMAR CASTILLON, DUSTY
KNIGHT, JUSTIN KEITH PETERSON,
LEON RUSSELL, CHRISTOPHER S.
JORDAN, JACOB JUDD, MICHAEL
FORD-BRIDGES, and RAYMOND
BRYANT,

Plaintiffs,

vs.

CORRECTIONS CORPORATION OF
AMERICA, INC.,

Defendant.

Case No. 1:12-CV-00559-EJL

ORDER

Pending before the Court are Defendant's Motion to Stay Discovery (Dkt. 20) and Motion for Protective Order. (Dkt. 23.) Plaintiffs oppose both Motions. (Dkt. 21, 39.) Defendant has filed a Motion to Dismiss the Amended Complaint based, in part, on failure to exhaust administrative remedies. (Dkt. 19.) In the District of Idaho, the Court regularly employs case management procedures specific to pro se prisoner cases, and those procedures are often extended to counseled prisoner cases.¹ One of those procedures

¹ See *In re Arizona*, 528 F.3d 652, 657 (9th Cir. 2008) ("Federal Rule of Civil Procedure 16 vests the district court with early control over cases 'toward a process of judicial management that embraces the entire pretrial phase, especially motions and discovery.'" (citing Fed. R. Civ. P. 16 advisory committee's

is to stay discovery pending the outcome of a motion to dismiss for failure to exhaust administrative remedies, because a conclusion that a prisoner has failed to exhaust his remedies requires the complaint to be dismissed without prejudice. *See Woodford v. Ngo*, 548 U.S. 81, 88 (2006) (proper exhaustion under 42 U.S.C. § 1997e(a) is required, meaning that a prisoner must complete the administrative review process as a precondition to bringing suit in federal court).

Where the complaint may be dismissed as a result of failure to exhaust, it makes abundant sense to stay discovery on the merits of the claims to avoid unnecessary expenditures of time and money on discovery.² While that same reasoning can apply to a case where complete dismissal is sought on other grounds, such as qualified immunity, the Court declines to stay discovery in this case on the record before it, for the following reasons.

First, even if the claims of the six inmates whose exhaustion status is at issue in the Motion to Dismiss are dismissed, the exhaustion argument in the Motion to Dismiss does not encompass the claims of two of the inmates whose exhaustion status is not at issue. Second, this case involves a jointly-filed, jointly-pursued Amended Complaint, where it is alleged that all claimants were injured in the same incident by the same perpetrators caused by the same acts and omissions of Defendant; these commonalities

note, 1983 Amendment)).

² Other federal district courts do likewise. *See, e.g., Manning v. Masters*, 2012 WL 1431359 (D. Nev. 2012); *Bey v. Hedgepeth*, 2010 WL 3034494 (E.D. Cal. 2010).

suggest that discovery will not be substantially narrowed by dismissal of one or more of the six claimants at issue in the Motion to Dismiss. Third, even if the claims of the six inmates are dismissed, the inmates remain eyewitnesses.

While saving a client the effort and expenditures of discovery is a worthy goal, it is not likely to be realized in this case. Accordingly, the Motion to Stay Discovery and the Motion for a Protective Order will be denied, and the parties' time to respond to any pending discovery will be extended to accommodate this Order.

ORDER

IT IS ORDERED:

1. Defendant's Motion to Stay Discovery (Dkt. 20) is DENIED.
2. Defendant's Motion for a Protective Order (Dkt. 23) is DENIED.
3. The parties shall have 30 days after entry of this Order in which to respond to any outstanding discovery requests.



DATED: **April 19, 2013**

A handwritten signature in black ink, appearing to read "Edward J. Lodge".

Honorable Edward J. Lodge
U. S. District Judge