

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TYRONE R. WILLIAMS,

Plaintiffs,

v.

No. 20 C 5639

THOMAS DART, et al.,

Defendants.

Judge Martha M. Pacold
Magistrate Judge Beth W. Jantz

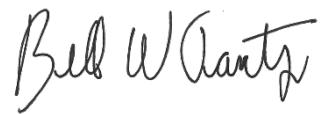
ORDER

Consistent with Seventh Circuit precedent in *Pavey v. Conley*, 544 F.3d 739, 742 (7th Cir. 2008), Defendants' motion requesting limited discovery on the affirmative defense of exhaustion [66] is GRANTED. Plaintiff's objections based on perceived insufficiencies in Defendants' Rule 26(a) disclosures and pleading of the affirmative defense of exhaustion are not reasons to prevent discovery on the issue of exhaustion. Plaintiff has not moved to strike the affirmative defense for failure to comply with the pleading standards, and any such motion would need to be raised before the District Judge.

The Prison Litigation Reform Act ("PLRA") requires incarcerated plaintiffs to exhaust their administrative remedies prior to filing suit. 42 U.S.C. § 1997e(a). To conduct the entirety of pre-trial discovery, only to discover at the close that a plaintiff had not complied with the PLRA's exhaustion requirement would be a waste of the parties' and the Court's resources. It is precisely for this reason that the Seventh Circuit in *Pavey* suggested a process whereby the issue of exhaustion could be resolved before undertaking intensive fact discovery. *See, e.g., Wagoner v. Lemmon*, 778 F.3d 586, 590 (7th Cir. 2015) (citing *Pavey*, 544 F.3d at 742).

Accordingly, the Court sets the following schedule (striking any previously set dates): any additional written discovery requests as to exhaustion shall issue by 5/31/23; any depositions on the issue of exhaustion shall be noticed by no later than 7/31/23; and fact discovery related to the issue of exhaustion shall be completed by 9/15/23. Defendant's *Pavey* motion, limited solely to the issue of exhaustion, shall be filed with the District Judge by 10/13/23; Plaintiff's response shall be filed by 11/13/23; Defendant's reply shall be filed by 11/30/23. Should Defendants' *Pavey* motion be denied, merits discovery will recommence, and a schedule will be set for the filing of dispositive motions on the merits at a later time. A telephonic status hearing on the progress of exhaustion discovery is set for 7/13/23 at 2pm.

E N T E R:



Dated: 5/16/23

BETH W. JANTZ
United States Magistrate Judge