



1 properly respond.”

2 “The district court has broad discretion to stay proceedings as an incident to its  
3 power to control its own docket.” Clinton v. Jones, 520 U.S. 681, 706–07 (1997), citing  
4 Landis v. North American Co., 299 U.S. 248, 254 (1936). “The proponent of the stay  
5 bears the burden of establishing its need.” Id. at 706. The Court considers the following  
6 factors when ruling on a request to stay proceedings: (1) the possible damage which  
7 may result from the granting of a stay, (2) the hardship or inequity which a party may  
8 suffer in being required to go forward, and (3) the orderly course of justice, measured in  
9 terms of the simplifying or complicating of issues, proof, and questions of law which  
10 could be expected to result from a stay. Filtrol Corp. v. Kelleher, 467 F.2d 242, 244 (9th  
11 Cir. 1972)(quoting CMAX, Inc. v. Hall, 300 F.2d 265, 268 (9th Cir. 1962)).

12 Neither of Plaintiff’s proffered grounds demonstrates the need for a stay. First,  
13 Plaintiff provides no reason why he might need a court order in an unrelated case to  
14 oppose the motion for summary judgment in this case. Defendants here have moved for  
15 summary judgment on the grounds that plaintiff has not exhausted his administrative  
16 remedies. (ECF No. 35). Plaintiff does not need a court order to show that he has, in  
17 fact, exhausted his administrative remedies. To the extent that Plaintiff intends to argue,  
18 as he suggests he does, that there was “a denial of access to the appeals process” that  
19 prevented him from exhausting his remedies, he may make this argument and set forth  
20 facts supporting it in a sworn declaration without a court order.

21 Second, proceedings need not be stayed indefinitely to allow Plaintiff to regain  
22 access to his legal materials. There is no reason to believe that this transfer will result in  
23 anything but a temporary separation between Plaintiff and his property. Such a  
24 temporary obstacle to meeting filing deadlines does not justify an indefinite stay. See  
25 Young v. I.N.S., 208 F.3d 1116, 1119 (9th Cir. 2000)(strength of justification for stay  
26 should balance length of any stay granted).

27 Additionally, staying this action would create a risk of prejudice to the Defendant.  
28 “[D]elay inherently increases the risk that witnesses’ memories will fade and evidence

1 will become stale". Davis v. Walker, 745 F.3d 1303, 1309 (9th Cir. 2014)(citations  
2 omitted); see Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)(a presumption of  
3 injury arises from delay in resolving an action). Delay also disrupts the Court's  
4 schedules.

5 If Plaintiff needs a discrete, limited extension of time to meet a deadline set by this  
6 Court, he may request it, along with an explanation of why the extension is necessary.  
7 See Eldridge v. Block, 832 F.2d 1132, 1136 (9th Cir. 1987). Lack of access to legal  
8 documents is an acceptable ground for an extension of time. Id.; see also, e.g., Bennett  
9 v. King, 293 F.3d 1096, 1098 (9th Cir. 2002).

10 For the foregoing reasons, Plaintiff's Motion for an Indefinite Stay (ECF No. 41) is  
11 DENIED, without prejudice.

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13 IT IS SO ORDERED.

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Dated: February 6, 2015

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE

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