

1 resentenced by the Superior Court of California, County of Contra Costa; he was required to
2 leave all of his boxes of legal materials and personal property at Richard J. Donovan Correctional
3 Facility when he was transferred to Contra Costa County; and he does not know how long the
4 resentencing proceedings will take. While Plaintiff's motion does not state the specific length of
5 the requested stay, Plaintiff asks the Court to stay this action until the state court resentencing
6 proceedings are finished, he is transferred back to Richard J. Donovan Correctional Facility, and
7 all of his legal materials are returned to his possession. (Id. at 3.)

8 On September 27, 2019, Defendant filed a non-opposition to Plaintiff's motion to stay.
9 (ECF No. 78.) While Defendant asserts that he does not oppose Plaintiff's motion for a
10 temporary stay, Defendant notes that Plaintiff has not explained why he needs anything from his
11 legal property to complete his opposition to Defendant's motion to compel Plaintiff's deposition
12 and responses to discovery requests, which has been pending for five months. (Id. at 2.)
13 Defendant requests that, as a part of any order granting Plaintiff's motion for stay, the Court order
14 Plaintiff to give notice of his return to CDCR custody within seven days of his return and that
15 Plaintiff file his opposition to Defendant's motion to compel within fourteen days of Plaintiff's
16 return to CDCR custody. (Id.)

17 The district court "has broad discretion to stay proceedings as an incident to its power to
18 control its own docket." Clinton v. Jones, 520 U.S. 681, 706 (1997) (citing Landis v. North
19 American Co., 299 U.S. 248, 254 (1936)). A stay is discretionary and the "party requesting a stay
20 bears the burden of showing that the circumstances justify an exercise of that discretion." Nken
21 v. Holder, 556 U.S. 418, 433-34 (2009). "Generally, stays should not be indefinite in nature."
22 Dependable Highway Exp., Inc. v. Navigators Ins. Co., 498 F.3d 1059, 1066-67 (9th Cir. 2007).
23 If a stay is especially long or its term is indefinite, a greater showing is required to justify it.
24 Yong v. I.N.S., 208 F.3d 1116, 1119 (9th Cir. 2000). The Court should "balance the length of
25 any stay against the strength of the justification given for it." Id.

26 Here, Plaintiff requests a stay of the proceedings in this case for an indefinite amount of
27 time. However, at this time, Plaintiff has failed to demonstrate that there is sufficient justification
28 to support an indefinite stay of this action. Initially, the Court does not lightly stay litigation due

1 to the possibility of prejudice to Defendant. In this case, this action was filed in February 2015
2 and is already more than four years old. Additionally, since Defendant's motion to compel
3 Plaintiff's deposition and Plaintiff's answers to Defendant's propounded discovery requests was
4 filed on April 18, 2019, the motion has already been pending for more than five months. Any
5 indefinite stay of these proceedings will only further delay the resolution of Defendant's pending
6 motion to compel and the resolution of this entire action. Further, while the Court understands
7 that Plaintiff is without his legal materials while he is housed at the Contra Costa County Jail,
8 Plaintiff has failed to sufficiently explain why he needs his legal materials to complete and file his
9 opposition to Defendant's motion to compel, or otherwise continue prosecuting this action. Thus,
10 Plaintiff's current lack of access to his legal materials does not provide a basis to stay these
11 proceedings.

12 Finally, a stay of this entire action is not Plaintiff's only remedy. If there comes a time
13 when Plaintiff needs access to his legal property in order to take some action before a deadline,
14 then Plaintiff can file a motion for an extension of time, before the expiration of the deadline,
15 showing good cause for why an extension of the deadline should be granted. Therefore, the Court
16 will deny Plaintiff's motion to stay these proceedings indefinitely.

17 Nevertheless, since Plaintiff is currently housed at the Contra Costa County Jail, without
18 his legal materials, the Court finds that it is in the interests of justice to send Plaintiff a courtesy
19 copy of Defendant's motion to compel Plaintiff's deposition and responses to discovery requests,
20 and extend Plaintiff's deadline to file an opposition to Defendant's motion to compel for fourteen
21 days. Therefore, Plaintiff's opposition to Defendant's motion to compel Plaintiff's deposition
22 and discovery responses, (ECF No. 62), if any, shall be filed no later than **fourteen (14) days**
23 from the date of service of this order.

24 Further, Plaintiff will now have had almost six months to oppose Defendant's request to
25 compel, which the Court finds is ample time given the substance of the motion. Plaintiff has filed
26 three motions for extensions of time to Defendant's motion to compel, encompassing eleven
27 pages total, which this Court has granted. In reviewing Defendant's motion to compel, Plaintiff
28 should be able to adequately respond to the motion as the motion is based on Plaintiff's refusal to

1 sit for a deposition or respond to Defendant's propounded discovery requests. However, as a
2 courtesy and as noted above, the Court will provide Plaintiff with copies of the moving papers.
3 Therefore, Plaintiff is advised that no further extensions of time to file an opposition to the
4 motion to compel will be granted. If Plaintiff fails to file an opposition in compliance with this
5 order, Defendant's motion to compel will be deemed unopposed as Plaintiff has had ample time
6 to respond to the issues raised by Defendant.

7 Accordingly, it is HEREBY ORDERED that:

- 8 1. The Clerk of the Court is directed to update Plaintiff's address of record to:
9 Michael J. Sullivan, # CC19LM562
10 Martinez Detention Facility
11 1000 Ward Street
Martinez, CA 94553
- 12 2. Plaintiff's motion to stay proceedings, (ECF No. 77), is DENIED;
- 13 3. In the interests of justice, Plaintiff is granted a fourth extension of time to file an
14 opposition to Plaintiff's motion to compel deposition and discovery responses;
- 15 4. The Clerk of the Court is directed to send Plaintiff a complete copy of Defendant's
16 motion to compel Plaintiff's deposition and discovery responses, (ECF No. 62),
17 filed on April 18, 2019;
- 18 5. Plaintiff shall file his opposition to Defendant's motion to compel Plaintiff's
19 deposition and discovery responses, if any, no later than **fourteen (14) days** from
20 the date of service of this order; and
- 21 6. If Plaintiff fails to file an opposition to the motion to compel in compliance with
22 this order, Defendant's motion to compel shall be deemed unopposed.

23 IT IS SO ORDERED.

24 Dated: October 1, 2019

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26 UNITED STATES MAGISTRATE JUDGE