

1 230 (l).

2 **II. Stay of Proceedings**

3 A district court has the inherent power to stay its proceedings. This power to stay is
4 “incidental to the power inherent in every court to control the disposition of the causes on its
5 docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North*
6 *American Co.*, 299 U.S. 248, 254 (1936); *see also Gold v. Johns-Manville Sales Corp.*, 723 F.2d
7 1068, 1077 (3d Cir.1983) (holding that the power to stay proceedings comes from the power of
8 every court to manage the cases on its docket and to ensure a fair and efficient adjudication of the
9 matter at hand). This is best accomplished by the “exercise of judgment, which must weigh
10 competing interests and maintain an even balance.” *Landis*, 299 U.S. at 254–55. In determining
11 whether a stay is warranted, courts consider the potential prejudice to the non-moving party; the
12 hardship or inequity to the moving party if the action is not stayed; and the judicial resources that
13 would be saved by simplifying the case or avoiding duplicative litigation if the case before the
14 court is stayed. *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir.1962). The Ninth Circuit “has
15 sustained or authorized in principle *Landis* stays on several occasions,” *Lockyer v. Mirant Corp.*,
16 398 F.3d 1098, 1110 (9th Cir.2005), none of which apply here. The Court finds no basis to
17 warrant staying the action at this time, particularly where a mere extension of the pending
18 deadlines should obviate any hardship or inequity to Plaintiff occasioned by his extended
19 retention at VSP.

20 **III. Modification of Scheduling Order**

21 Federal Rule of Civil Procedure 16(b) requires a party to show good cause to modify the
22 schedule of the case. Rule 16(b)’s good cause standard focuses primarily on the diligence of the
23 moving party, *id.*, and the reasons for seeking modification, *C.F. ex rel. Farnan v. Capistrano*
24 *Unified Sch. Dist.*, 654 F.3d 975, 984 (9th Cir.2011). If the party seeking to amend the
25 scheduling order fails to show due diligence, the inquiry should end and the court should not
26 grant the motion to modify. *Zivkovic v. Southern California Edison, Co.*, 302 F.3d 1080, 1087
27 (9th Cir. 2002).

28 ///

1 The Court finds Plaintiff has exercised due diligence and has even already filed a motion
2 to compel responses to his discovery. (See Docs. 33, 37.) The Court also finds that Plaintiff's
3 reasons for seeking modification, his transfer from SCC to VSP without his property and legal
4 documents with no known date when he will be transferred back to SCC, justify modifying the
5 Discovery and Scheduling Order by extending the remaining pending deadlines. Deadlines which
6 lapsed before Plaintiff filed his motion (i.e. for exhaustion motions and to amend pleadings) need
7 not be extended.

8 **IV. Order**

9 Accordingly, the Court **ORDERS**:

- 10 (1) To the extent Plaintiff's motion (Doc. 37) seeks a stay of this action, it is
11 DENIED;
- 12 (2) To the extent Plaintiff's motion (Doc. 37) seeks to extend dates to modify the
13 scheduling order, it is **GRANTED** and the Discovery and Scheduling Order
14 is AMENDED as follows:
- 15 a. the deadline for completion of all discovery, including filing motions
16 to compel is extended to September 16, 2019;
- 17 b. the deadline for filing pre-trial dispositive motions is extended to
18 November 19, 2019; and
- 19 (2) other than the above modification of deadlines, all requirements of the
20 January 16, 2019 Discovery and Scheduling Order (Doc. 32) remain in
21 effect.

22
23 IT IS SO ORDERED.

24 Dated: July 18, 2019

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE