

1 On July 31, 2019, Plaintiff filed a motion for a stay of the proceedings. (ECF No. 31.)
2 Defendant filed an answer to the complaint on August 2, 2019, and the Court issued a discovery
3 and scheduling order on August 5, 2019. (ECF Nos. 32, 33.) Rather than filing an opposition to
4 Plaintiff's motion for stay, Defendant filed a motion for summary judgment on August 23, 2019.¹
5 (ECF No. 37.)

6 Currently before the Court are Plaintiff's motion for stay and Plaintiff's motion for
7 continuance in these proceedings, filed September 16, 2019. (ECF Nos. 31, 39.) Defendant has
8 not yet had the opportunity to file a response to Plaintiff's motion for continuance, but the Court
9 finds a response is unnecessary. The motions are deemed submitted. Local Rule 230(l).

10 **II. Motion for Stay**

11 In his motion for stay, Plaintiff argues that due to his being transferred to various
12 institutions just prior to the July 12, 2019 settlement conference, he was not adequately prepared
13 to litigate his claims before Magistrate Judge Boone. Specifically, Plaintiff alleges that prison
14 officials retaliated against him by refusing to allow him to transpack with his necessary legal
15 property, and that he did not receive all of the Court's relevant orders from the time period
16 leading up to the settlement conference. Plaintiff therefore requests a stay of sixty days to allow
17 him to draft several motions, including a motion for monetary sanctions against Defendant for
18 violating the Court's June 19, 2019 order to transport Plaintiff to the settlement conference with
19 his necessary legal property and for destruction of his legal documents and books, a motion
20 compelling production of discovery, and a motion for summary judgment. (ECF No. 31, p. 5.)

21 The district court "has broad discretion to stay proceedings as an incident to its power to
22 control its own docket." Clinton v. Jones, 520 U.S. 681, 706 (1997) (citing Landis v. North
23 American Co., 299 U.S. 248, 254 (1936)). "Generally, stays should not be indefinite in nature."
24 Dependable Highway Exp., Inc. v. Navigators Ins. Co., 498 F.3d 1059, 1066–67 (9th Cir. 2007).
25 If a stay is especially long or its term is indefinite, a greater showing is required to justify it.
26 Yong v. I.N.S., 208 F.3d 1116, 1119 (9th Cir. 2000). The party seeking the stay bears the burden

27
28 ¹ Plaintiff filed a motion for sanctions on August 16, 2019. (ECF No. 36.) Defendant filed an opposition on
September 5, 2019. (ECF No. 38.) This motion will be resolved by separate order.

1 of establishing the need to stay the action. Clinton, 520 U.S. at 708.

2 As noted above, Plaintiff has already filed a motion for sanctions against Defendant,
3 which will be addressed in a separate order. (ECF No. 36.) Further, pursuant to the Court's
4 August 5, 2019 discovery and scheduling order, the deadlines for the filing of any motions to
5 compel or motions for summary judgment will not expire until April 5, 2020 and November 5,
6 2019, respectively. (ECF No. 33.) As such, Plaintiff has failed to establish the need to stay this
7 action at this time, and the motion will be denied.

8 **III. Motion for Continuance**

9 In his motion for continuance of these proceedings, Plaintiff argues that he requires
10 additional time to respond to Defendant's motion for summary judgment because he must
11 conduct additional legal research and discovery. He therefore requests an extension of forty-five
12 days to file his opposition. (ECF No. 39.) The Court construes the motion as a request for an
13 extension of time to file an opposition to the pending motion for summary judgment. Having
14 considered the request, and good cause appearing, Plaintiff's motion for extension of time will be
15 granted, in part. The Court finds that an extension of thirty days, rather than forty-five, is
16 appropriate under the circumstances.

17 **IV. Conclusion and Order**

18 Accordingly, IT IS HEREBY ORDERED as follows:

- 19 1. Plaintiff's motion for stay, (ECF No. 31), is DENIED;
- 20 2. Plaintiff's motion for continuance, (ECF No. 39), is GRANTED IN PART; and
- 21 3. Plaintiff's opposition to Defendant's motion for summary judgment is due within **thirty**
22 **(30) days** from the date of service of this order.

23
24 IT IS SO ORDERED.

25 Dated: September 24, 2019

25 /s/ Barbara A. McAuliffe
26 UNITED STATES MAGISTRATE JUDGE