

1 Defense counsel has filed a declaration stating that counsel received a “motion” from
2 plaintiff seeking indefinite continuance of this litigation which has not been filed with the court.
3 ECF No. 104 at 2. Plaintiff reportedly alleges in that unfiled motion that his father has obtained a
4 restraining order against him and, as a consequence, plaintiff is effectively homeless. *Id.* The
5 restraining order will be in effect until 2020. *Id.* at 22.

6 Plaintiff has not actually sought a stay from the court² and, in any event, it is unclear how
7 a suitable stay could be crafted in light of his present circumstances. Plaintiff has not provided
8 any indication as to when he will be able to litigate effectively again, and stays should generally
9 be “of short, or at least reasonable, duration.” *See Dependable Highway Express, Inc. v.*
10 *Navigators Ins. Co.*, 498 F.3d 1059, 1067 (9th Cir. 2007).

11 For the reasons stated above, it is hereby RECOMMENDED that this action be
12 DISMISSED for failure to prosecute. Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110.

13 These findings and recommendations are submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
15 after being served with these findings and recommendations, any party may file written
16 objections with the court and serve a copy on all parties. Such a document should be captioned
17 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
18 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
19 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

20 DATED: December 12, 2017.

21 
22 EDMUND F. BRENNAN
23 UNITED STATES MAGISTRATE JUDGE

24
25
26 _____
27 ² The court recognizes and takes judicial notice of the fact that plaintiff has sought a stay
28 in a separate case before this district. *See Benyamini v. Terry*, 2:15-cv-2615-TLN-EFB, ECF No.
39. Plaintiff has not filed a similar motion in this case, however. Additionally, the court has
recommended denying the motion for stay in *Terry*. *Id.*, ECF No. 40.