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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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JOHN GILDING, a married man,

No. CV-08-2137-PHX-GMS

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Plaintiff,

**ORDER**

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vs.

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JOHN S. CARR, et al.,

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Defendants.

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On April 8, 2009, the Court granted Plaintiff John Gilding’s Motion to Remand to State Court and reserved ruling on Plaintiff’s motion for attorneys’ fees pending his compliance with Federal Rule of Civil Procedure 54 and Local Rule of Civil Procedure 54.2. (Dkt. # 102 at 12-13.) The Court subsequently extended the time in which Plaintiff could file a fee application to April 24, 2009. (Dkt. # 104.) On April 23, one day before the fee deadline, Defendant National Air Traffic Controllers Association, AFL-CIO (“NATCA”) filed its notice of appeal. (Dkt. # 105.) Plaintiff has now filed a Request for Stay of Proceedings. (Dkt. # 106.)

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The Court is not entirely clear as to the legal basis for Plaintiff’s motion. Plaintiff states that:

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The deadline to file such a Motion [for fees] is April 24, 2009, and the Notice of Appeal was filed April 23, 2009. In order to preserve the right to move for an award of attorney fees and

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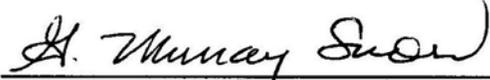
costs, Plaintiff respectfully requests that this Court stay the proceedings pending resolution of the appeal to the Ninth Circuit, pursuant to Fed. R. App. P. 4(a)(4).

(*Id.* at 1.) If Plaintiff is requesting a second extension of the fee application deadline pursuant to the Court’s discretion, the Court declines to extend the deadline again because no good cause has been shown. If Plaintiff is arguing that, under Federal Rule of Appellate Procedure 4(a)(4), NATCA’s Notice of Appeal affects Plaintiff’s right to file a fee application, the Court notes that Rule 4(a)(4)(B) provides that notices of appeal do not become effective until “the order disposing of the last such remaining [Rule 4(a)(4)(A)] motion is entered.” To the extent that Rule 4(a)(4) is implicated here, it does not bar the fee application. Thus, the Court will not stay the matter.

**IT IS THEREFORE ORDERED** that Plaintiff’s Request for Stay of Proceedings (Dkt. # 106) is **DENIED**.

**IT IS FURTHER ORDERED** confirming that Plaintiff has up to and including **April 24, 2009**, to file his fee application in conformity with Federal Rule of Civil Procedure 54 and Local Rule of Civil Procedure 54.2.

DATED this 23rd day of April, 2009.

  
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G. Murray Snow  
United States District Judge