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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Attorney Yellow Pages.Com, L.L.C., an
Arizona limited liability company and
James Novak, an individual,

No. CV-09-0282-PHX-LOA

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ORDER

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Plaintiffs,

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vs.

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Advice Company, a California
corporation,

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Defendant.

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Advice Company, a California
Corporation,

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Counterclaimant,

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vs.

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Attorney Yellow Pages.Com, L.L.C., an
Arizona limited liability company,

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Counterdefendant.

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This matter arises on Defendant/Counterclaimant Advice Company's
("Advice") Motion to Stay Proceedings, filed on April 7, 2009. (docket # 24) After
considering the relevant pleadings, the Court will deny Advice's Motion to Stay.

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BACKGROUND

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This lawsuit centers around claims of trademark infringement and related

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1 present scenario because the California lawsuit has been dismissed. There is no active
2 pending lawsuit in the Northern District of California, only an appeal to the Ninth Circuit.
3 While the Court will not speculate how long this appeal may take, it is common knowledge
4 that the probabilities favor affirmance of appeals more often than reversals. Advice offers
5 no estimate how long before the parties will likely receive a ruling on the merits of its appeal
6 even if the appeal were not transferred or refiled with the Federal Court of Appeals in
7 Washington, D.C. As mentioned earlier, “[a] stay should not be granted unless it appears
8 likely the other proceedings will be concluded within a reasonable time.” *Leyva*, 593 F.2d
9 at 864.

10 The Court agrees with AYPC that further delay in the Arizona proceeding,
11 especially due to a collateral issue, i.e., whether the Northern District of California had
12 personal jurisdiction over AYPC, will leave the central issue of trademark infringement
13 unresolved for a significant period of time, effectively preventing AYPC (and Advice) from
14 continuing to grow and reap the benefits of their businesses. The hardship of uncertainty
15 effectively freezes AYPC’s business, along with its potential growth and/or revenue.
16 Granting the stay will not simplify the merits of the parties’ infringement claims and
17 defenses nor resolve important questions of law related to those claims and defenses.
18 Reversal of the dismissal order and a return to Northern District of California in San
19 Francisco for trial would simply make resolution of the parties’ disputes more convenient
20 and less expensive for Advice, a California company, and less convenient and more
21 expensive for AYPC, an Arizona limited liability company. With either venue, one party will
22 be required to bear the burdens of travel. Additionally, Advice has not articulated any claim
23 or defense that may not be brought in the Arizona case that was raised in the California case.

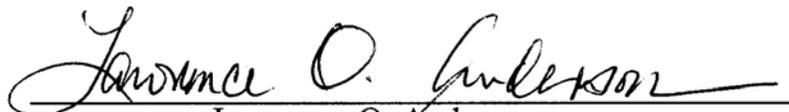
24 Finally, the parties engaged in little discovery on the merits in the
25 California lawsuit except as it related to personal jurisdiction. Allowing the Arizona
26 lawsuit to continue as scheduled with the Rule 16 scheduling conference set for May 5,
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1 2009 would bring a quicker resolution to the parties' disputes, consistent with Rule 1¹,
2 FED.R.CIV.P., and Congress' mandate to the federal judiciary to dispose of civil cases in
3 a more efficient and inexpensive manner with its passage of the Civil Justice Reform Act
4 of 1990, 28 U.S.C. §471 *et seq.*² Advice offers no "clear case of hardship or inequity in
5 being required to go forward" with the Arizona lawsuit, *Landis*, 299 U.S. at 255, or a
6 credible reason to justify delaying reaching the merits in the Arizona lawsuit of the
7 parties' various claims and counterclaims when, at this point in time, there is no
8 duplicative case, there is no waste of judicial resources, and there is no possibility of
9 conflicting results. The Court recognizes, however, that this issue may need to be
10 revisited if the Ninth Circuit or the Federal Court of Appeals remands the case back to
11 the Northern District of California. Therefore, the Court will deny Advice's motion
12 without prejudice.

13 Advice having failed to meet its burden of proving that a stay of this
14 lawsuit is warranted,

15 **IT IS ORDERED** that Advice's Motion to Stay Proceedings, docket # 24,
16 is **DENIED** without prejudice.

17 DATED this 1st day of May, 2009.

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20 Lawrence O. Anderson
21 United States Magistrate Judge
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25 ¹ "These rules . . . shall be construed and administered to secure the just, speedy, and
26 inexpensive determination of every action." Rule 1, FED.R.CIV.P.

27 ² The CJRA requires district courts to take "early and ongoing control" of civil cases by
28 "setting early, firm trial dates, such that the trial is scheduled to occur **within eighteen months** after
the filing of the complaint. . . ." 28 U.S.C. § 473(a)(2)(B) (emphasis added").