

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

SUSAN HARP

PLAINTIFF

V.

4:13CV0004 JMM

**BAYER HEALTHCARE
PHARMACEUTICALS, INC.**

DEFENDANT

ORDER

Pending is the Defendant's Motion to Reconsider and to Lift Stay. Plaintiff filed a motion to stay the pretrial proceedings in this case pending a ruling by the Judicial Panel on Multidistrict Litigation regarding transfer of this case. The motion was granted on January 28, 2013. Defendant filed a Motion to Dismiss the Complaint six days later and subsequently filed the Motion to Reconsider the stay.

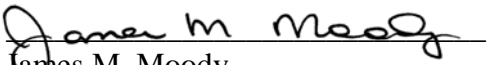
While the Court has jurisdiction to lift the stay and rule on the pending Motion to Dismiss, the Court finds that the stay in this case is appropriate. As Defendant points out, the Court should consider "(1) potential prejudice to the non-moving party; (2) hardship and inequity to the moving party if the action is not stayed; and (3) the judicial resources that would be saved by avoiding duplicative litigation if the cases are in fact consolidated." *Adams v. Tyson Foods, Inc.*, 2007 WL 1539325, 1 (W.D. Ark. 2007). The Court finds that each of these factors favors a stay of the case.

Defendant argues that it is prejudiced by the possibility of protracted litigation, specifically that it is deprived of the opportunity to streamline the case through its Motion to Dismiss. However, after review of the Motion to Dismiss, it does not appear to provide this Court with meritorious arguments for dismissal. If the case is transferred to multidistrict litigation, the MDL court would have authority to reconsider any rulings made in the case up to

the point of transfer. Therefore, the stay saves judicial resources by avoiding duplicative rulings on the Motion to Dismiss and does not prejudice the Defendant. Further, the Court finds that Plaintiff has demonstrated a clear case of hardship or inequity to the Plaintiff if the case is not stayed.

For these reasons, the Defendant's Motion to Reconsider and to Lift Stay (Docket # 8) is DENIED.

IT IS SO ORDERED this 5th day of March, 2013.


James M. Moody
United States District Judge