

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-61684-CIV-COHN/SELTZER

MARY GILES, Individually and on Behalf of
All Others Similarly Situated

Plaintiff,

vs.

POM WONDERFUL LLC,

Defendant.

ORDER STAYING PROCEEDINGS

THIS CAUSE is before the Court on Defendant POM Wonderful LLC's Motion to Stay Proceedings Pending Transfer to Multidistrict Litigation [DE 22] ("Motion to Stay"). The Court has considered the Motion to Stay, Plaintiff Mary Giles's Response and Incorporated Memorandum of Law in Opposition to Defendant's Motion [DE 29] ("Response"), Defendant's Reply in Support of the Motion to Stay [DE 33] ("Reply"), the record in this case, and is otherwise advised in the premises.

Transfer of this case is currently pending to In re: POM Wonderful Sales Practice Litigation, MDL No. 2199. In its Motion to Stay, Defendant POM Wonderful seeks a brief stay pending the Judicial Panel on Multidistrict Litigation ("JPML") decision regarding transfer, in order to "conserve judicial resources, prevent inconsistent rulings, and avoid duplicative discovery." DE 22 at 1. Though a stay pending an MDL transfer motion is not automatic, such a stay "can increase efficiency and consistency, particularly when the transferor court believes that a transfer order is likely and when

the pending motions raise issues likely to be raised in other cases as well." Manual for Complex Litigation § 22.35 (4th ed.2004)." Manual for Complex Litigation § 22.35 (4th ed. 2004); see also Bonenfant v. R.J. Reynolds Tobacco Co., No. 07-60301-CIV, 2007 WL 2409980 (S.D. Fla. July 31, 2007) ("It is common practice for courts to stay an action pending a transfer decision by the JPML.").

Based on the arguments set forth in the Motion for Transfer of Actions to the Central District of California and for Coordination or Consolidation of All Pretrial Proceedings Pursuant to 28 U.S.C. § 1407, DE 20 at 2-4, as well as the Memorandum submitted in support thereof, DE 20 at 18-27, the Court finds it likely that the JPML will enter an order transferring the above-styled cause. Furthermore, plaintiffs across the country have continued to file additional class actions similar to the instant case¹, and five of the plaintiffs, including Ms. Giles, have sought to transfer all pending federal POM class actions to a single district for consolidated and coordinated pretrial proceedings. See DE 33 at 2. Judicial consistency and economy would best be served by imposing a brief stay of this action pending a transfer decision by the JPML.

¹ As of November 1, 2010, there were eight federal class actions similar to the instant action pending against POM Wonderful: Alexander, et al. v. POM Wonderful LLC, No. 09-CV-08182 DDP (Rzx) (C.D. Cal. filed Nov. 6, 2009); Ng v. POM Wonderful et al., No. 10-CV-7575-DDP (RZx) (C.D. Cal. filed Oct. 8, 2010); Henn et al. v. POM Wonderful LLC, No. 10-CV-08024-MMM (FMO) (C.D. Cal. filed Oct. 25, 2010); Cosmas v. POM Wonderful et al., No. CV-10-7707-VBF (JEMx) (C.D. Cal. Oct. 14, 2010); Pons v. POM Wonderful LLC et al., No. 10-CV-08025-GW (RZx) (C.D. Cal. filed Oct. 25, 2010); Pogrebinsky v. POM Wonderful LLC, No. 10-CV-01455-DCN (N.D. Ohio filed June 30, 2010); Franco v. POM Wonderful et al., No. CV410-250 (S.D. Ga. filed Oct. 27, 2010); Cortez v. POM Wonderful LLC et al., No. 10-23680-CIV-Martinez/Brown (S.D. Fla. filed Oct. 13, 2010). DE 34; DE 4; DE 33 at 1. There were three similar state court cases pending: Collins v. POM Wonderful LLC et al., No. BC446472 (Cal. Sup. Ct. filed Sept. 29, 2010); Glandian v. POM Wonderful LLC et al., No. BC448339 (Cal. Sup. Ct. filed Oct. 27, 2010); Flaherty v. POM Wonderful LLC et al., No. C-2010-CH44337 (Ill. Cir. Ct. filed Oct. 12, 2010). DE 34.

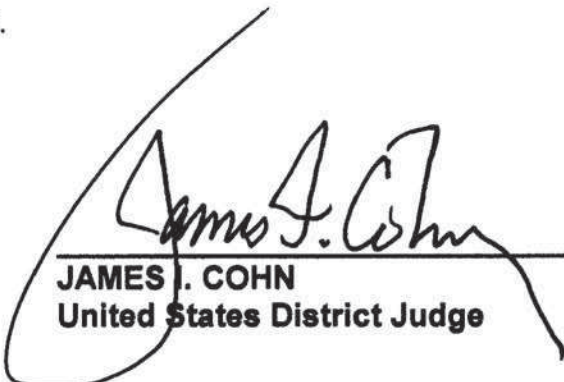
Accordingly, it is hereby

ORDERED AND ADJUDGED as follows:

1. Defendant POM Wonderful LLC's Motion to Stay Proceedings Pending Transfer to Multidistrict Litigation is **GRANTED**;
2. This case is **STAYED** pending an MDL panel decision regarding the transfer of this action, or until further order of this Court;
3. The Clerk of the Court shall **CLOSE** this case for administrative purposes;
4. Defendant's counsel shall immediately forward to this Court any orders from the MDL panel pertaining to this action;
5. In light of the stay, Plaintiff's Motion for Expedited Discovery and Incorporated Memorandum of Law [DE 21] is **DENIED without prejudice**. If the stay is lifted, Plaintiff may re-file her Motion for Expedited Discovery and Incorporated Memorandum of Law at that time.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County,

Florida, this 8th day of November, 2010.



JAMES J. COHN
United States District Judge

Copies provided to:
Counsel of record