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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
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11 VERINA FREEMAN and VALECEA  
12 DIGGS, individually and on  
13 behalf of all similarly  
14 situation,

15 Plaintiffs,

16 v.

17 WILSHIRE COMMERCIAL CAPITAL  
18 L.L.C., a California limited  
19 liability company, dba  
20 WILSHIRE CONSUMER CREDIT,

21 Defendant.  
22

CIV. NO. 2:15-1428 WBS AC

ORDER

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24 This matter came on for status conference on October  
25 26, 2015. Because the issues in this case substantially overlap  
26 those in Banarji v. Wilshire Commercial Capital, LLC dba Wilshire  
27 Consumer Credit, Civ. No. 3:14-2967 BEN KSC ("Banarji") (S.D.  
28 Cal. filed Dec. 17, 2014), a putative class action presently  
pending in the Southern District of California, this court is  
contemplating either dismissing the present action or  
transferring it to the Southern District of California.

1           The Banarji case appears to be well under way. In July  
2 2015, Magistrate Judge Karen S. Crawford held a case management  
3 conference in Banarji and issued an order requiring defendant to  
4 file its motion to dismiss for lack of standing by no later than  
5 November 23, 2015. (Minute Order, Banarji, ECF No. 22.)<sup>1</sup>  
6 Defendant anticipates that Judge Crawford will issue a ruling on  
7 its motion by January 2016.

8           At the October 26, 2015 status conference, the parties  
9 agreed and stipulated to stay all proceedings in this action,  
10 with the exception of certain limited discovery, pending the  
11 resolution of defendant's motion to dismiss in Banarji. This  
12 court agrees that the relevant interests weigh in favor of such a  
13 stay in this case. Because the court is reluctant to allow this  
14 case to continue in this district if Banarji proceeds in the  
15 Southern District of California, staying this action will  
16 conserve the parties' and the court's limited resources on  
17 pretrial matters that may prove moot should defendant's motion to  
18 dismiss be denied in Banarji and the court transfers this case to  
19 the Southern District of California. See Canal Props. LLC v.  
20 Alliant Tax Credit V, Inc., Civ. No. C04-3201 SI, 2005 WL  
21 1562807, at \*3 (N.D. Cal. June 29, 2005) (holding that "it would  
22 be a poor use of judicial resources to proceed" when an extrinsic  
23 proceeding could have a preclusive effect on the case).

24           If, on the other hand, Judge Crawford dismisses Banarji  
25 for lack of standing, this court will be inclined to lift the  
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27           <sup>1</sup> In August 2015, Judge Crawford also issued a broad  
28 protective order over all disclosure and discovery materials in  
the Banarji action. (See Protective Order ¶¶ 2.2, 3, Banarji,  
ECF No. 24.)

1 stay here and allow plaintiffs' case to proceed in this district.  
2 Cf. Alltrade, Inc. v. Uniweld Products, Inc., 946 F.2d 622, 629  
3 (9th Cir. 1991) ("[W]here the first-filed action presents a  
4 likelihood of dismissal, the second-filed suit should be stayed,  
5 rather than dismissed."). It would thus be more efficient and  
6 orderly for the court to stay all proceedings in this case until  
7 after the ruling on defendant's motion to dismiss in Banarji.

8 In the meantime, the parties have agreed to conduct  
9 limited discovery on the issue of the dialing system that  
10 defendant used to call plaintiffs and the putative class members  
11 in this action. The parties do not anticipate any discovery  
12 disputes that would need to be resolved by this court prior to  
13 the new Status Conference date. Accordingly, this court will not  
14 expressly limit the parties' discovery in this Order.

15 IT IS THEREFORE ORDERED that:

16 (1) proceedings in this action shall be, and the same  
17 hereby are, STAYED until February 22, 2016 pending the resolution  
18 of Defendant's motion to dismiss for lack of standing in Banarji  
19 v. Wilshire Commercial Capital, LLC dba Wilshire Consumer Credit,  
20 Civ. No. 3:14-2967 BEN KSC (S.D. Cal.);

21 (2) this case is set for a Status Conference on  
22 February 22, 2016 at 2:00 p.m. in Courtroom 5; and

23 (3) the parties shall file a Joint Status Report with  
24 this court no later than February 8, 2016 setting forth the  
25 status of discovery in this case and the progress of the Banarji  
26 action in the Southern District of California.

27 Dated: October 30, 2015



28 WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE