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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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11 RACKWISE, INC., a Nevada
12 Corporation,

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13 Plaintiff,

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14 v.

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15 GUY ARCHBOLD, an individual,
16 and DOES 1 to 25, inclusive,

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16 Defendants.

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19 Defendant moves to stay proceedings in this case until
20 the earliest occurrence of the expiration of 90 days, or a
21 determination of anticipated personal jurisdictional challenges
22 in another action pending Nevada state court. (Def.'s Mot. at 2
23 (Docket No. 77).)

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The power to stay proceedings "is incidental to the
power inherent in every court to control the disposition of the
cases on its docket with economy of time and effort for itself,
for counsel, and for litigants." Landis v. N. Am. Co., 299 U.S.
248, 254 (1936). In evaluating whether to stay proceedings, the

CIV. No. 17-797 WBS CKD

ORDER RE: MOTION TO STAY

1 court is concerned with balancing competing interests and should
2 consider: "(1) potential prejudice to the non-moving party; (2)
3 hardship and inequity to the moving party if the action is not
4 stayed; and (3) the judicial resources that would be saved by
5 avoiding duplicative litigation if the cases are in fact
6 consolidated." Woodcox v. Volkswagen Grp. of Am., Inc., Civ. No.
7 2:17-215 WBS DB, 2017 WL 915352, at *4 (E.D. Cal. Mar. 7, 2017)
8 (citing Rivers v. Walt Disney Co., 980 F. Supp. 1358, 1360 (C.D.
9 Cal. 1997)); see also Landis, 299 U.S. at 254-55; CMAX, Inc. v.
10 Hall, 300 F.2d 265, 268 (9th Cir. 1962). The burden is on the
11 requesting party to show that a stay is appropriate. Clinton v.
12 Jones, 520 U.S. 681, 708 (1997).

13 Defendant argues that if the state court action
14 survives a pending jurisdictional challenge, a stay of this
15 action will promote judicial economy by preventing duplicitous
16 efforts and preserving costs and expenses of litigation.
17 However, defendant does not explain, and the court does not see,
18 how granting a temporary stay pending the resolution of
19 anticipated personal jurisdiction challenges in the Nevada
20 litigation promotes judicial economy. Moreover, it is too
21 speculative at this point to predict the outcome of the Nevada
22 action.

23 A stay of this action would result in prejudice to
24 plaintiff, in that it would result in vacating the trial date--
25 set for June 5, 2018--and prevent plaintiff from proceeding to
26 trial first as the plaintiff in this action. The stage of the
27 litigation also weighs against granting defendant's Motion to
28 stay--the discovery deadline is February 2 and a trial date has

1 already been set. See Jain v. Trimas Corp., Civ. No. 04-889 FCD
2 PAN, 2005 WL 2397041, at *3 (E.D. Cal. Sept. 27, 2005) (Damrell,
3 J.) ("Because this case is no longer in its incipient stages, the
4 scales tip heavily in favor of denying plaintiff's motion to
5 stay."); Sorensen ex rel. Sorensen Research & Dev. Tr. v. Black &
6 Decker Corp., Civ. No. 06-1572 BTM CAB, 2007 WL 2696590, at *4
7 (S.D. Cal. Sept. 10, 2007) (the more relevant inquiry is whether
8 discovery is nearing completion); Simon v. Healthways, Inc., Civ.
9 No. 14-8022 BRO JCX, 2016 WL 6595131, at *2 (C.D. Cal. Feb. 1,
10 2016) (stating the stage of litigation weighed against finding a
11 stay where the discovery deadline passed, and the trial date was
12 roughly three months away). Thus, the potential prejudice to
13 plaintiff weighs against granting the stay.

14 IT IS THEREFORE ORDERED that defendant's Motion to stay
15 (Docket No. 77) be, and the same hereby is, DENIED.

16 Dated: January 18, 2018

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18 WILLIAM B. SHUBB
19 UNITED STATES DISTRICT JUDGE
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