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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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ROBERT MANN SR., VERN MURPHY-
MANN, DEBORAH MANN, ZACHARY
MANN, and WILLIAM MANN,

Plaintiffs,

v.

CITY OF SACRAMENTO,
SACRAMENTO POLICE DEPARTMENT,
SAMUEL D. SOMERS JR., JOHN C.
TENNIS, and RANDY R. LOZOYA,

Defendants.

CIV. NO. 2:17-1201 WBS DB

ORDER RE: MOTION TO STAY

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Presently before the court is defendants City of
Sacramento, Sacramento Police Department, and Samuel D. Somers'
Motion to stay the proceeding pending interlocutory appeal.¹
(Mot. to Stay (Docket No. 34).) Defendant's Tennis and Lozoya

¹ Defendants John Tennis and Randy Lozoya filed a notice
of non-opposition to the Motion to stay the proceedings pending
appeal. (Docket No. 43.)

1 appealed the court's denial of their Motion to dismiss which
2 requested qualified immunity from suit under § 1983. (Notice of
3 Interlocutory Appeal (Docket No. 28).)

4 A federal court can stay a proceeding pending the
5 outcome of an interlocutory appeal. See Nken v. Holder, 556 U.S.
6 418, 421 (2009). The power to stay proceedings "is incidental to
7 the power inherent in every court to control the disposition of
8 the cases on its docket with economy of time and effort for
9 itself, for counsel, and for litigants." Landis v. N. Am. Co.,
10 299 U.S. 248, 254 (1936). While it is unclear how the Ninth
11 Circuit may rule, "forcing a party to conduct 'substantial,
12 unrecoverable, and wasteful' discovery and pretrial motions on
13 matters that could be mooted by a pending appeal may amount to
14 hardship or inequity sufficient to justify a stay." Finder v.
15 Leprino Foods Co., Civ. No. 1:13-2059 AWI BAM, 2017 WL 1355104,
16 at *4 (E.D. Cal. Jan. 20, 2017) (Ishii, J.) (citing Pena v.
17 Taylor Farms Pac., Inc., Civ. No. 2:13-1282 KJM AC, 2015 WL
18 5103157, at *4 (E.D. Cal. Aug. 31, 2015) (Mueller, J.)).

19 Accordingly, the court concludes that granting a stay
20 is appropriate.

21 IT IS THEREFORE ORDERED that defendants' Motion to stay
22 pending appeal (Docket No. 34) be, and the same hereby is,
23 GRANTED. Upon resolution of the pending appeal, counsel shall
24 take the necessary steps to inform the Clerk and arrange to have
25 this matter set for further status conference.

26 Dated: January 18, 2018



27 WILLIAM B. SHUBB
28 UNITED STATES DISTRICT JUDGE