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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

United States of America,
Plaintiff,
v.
State of California, et al.,
Defendants.

No. 2:18-cv-00490-JAM-KJN

**ORDER GRANTING THE UNITED STATES
OF AMERICA'S MOTION TO STAY
PROCEEDINGS PENDING APPEAL**

I. PROCEDURAL BACKGROUND

In October, 2017, the State of California ("Defendant" or "California") passed Assembly Bill 103 ("A.B. 103"), Assembly Bill 450 ("A.B. 450"), and Senate Bill 54 ("S.B. 54"). Compl. at ¶ 27. Soon after, the United States of America ("Plaintiff" or "United States") moved to preliminarily enjoin several of the newly-enacted provisions. ECF No. 2. The Court granted in part and denied in part Plaintiff's motion for a preliminary injunction. Preliminary Injunction Order ("PIO"), ECF No. 193.

1 The Court also granted in part and denied in part Defendant's
2 motion to dismiss. Motion to Dismiss Order ("MDO"), ECF No.
3 197.

4 The United States appealed both orders, and now requests
5 that the proceedings before this Court be stayed until the Ninth
6 Circuit hands down its decision. Mot. for Stay, ECF No. 207.
7 Plaintiff's motion contends that a stay would promote judicial
8 efficiency, simplify important pretrial issues, prevent
9 inconsistent decisions, and eliminate potential hardship that
10 the it might otherwise face. Id. at 2-4. This Court agrees.
11 For the reasons discussed below, Plaintiff's motion is granted.

12 13 II. OPINION

14 A. Legal Standard

15 "A district court has broad discretion to stay proceedings
16 as an incident to its power to control its own docket." Clinton
17 v. Jones, 520 U.S. 681, 706 (1997). The Court must consider
18 several factors when deciding whether to exercise that
19 discretion to issue a stay: 1) the "possible damage which might
20 result from granting a stay," 2) the "hardship or inequity which
21 a party might suffer in being required to go forward," and
22 3) the "orderly course of justice measured in terms of the
23 simplifying or complicating of issues, proof, and questions of
24 law which could be expected to result from a stay." CMAX, Inc.
25 v. Hall, 300 F.2d 265, 268 (9th Cir. 1962).

26 The proponent of a stay bears the burden of showing that
27 these factors, on balance, warrant a stay. Clinton, 520 U.S. at
28 708. The moving party "must make out a clear case of hardship

1 or inequity in being required to go forward, if there is even a
2 fair possibility that the stay . . . will work damage to
3 some[one] else.” Landis v. N. Am. Co., 299 U.S. 248, 255
4 (1936).

5 B. Analysis

6 1. Denying a Stay Would Result in Hardship or
7 Inequity to the United States

8 The Court finds that the United States will face
9 unnecessary hardship or inequity if a stay is denied.
10 California “propose[s] extensive discovery, over the course of
11 over seven months” on the provisions of AB 450 that have been
12 enjoined and remain at issue before this Court. Mot. at 3. See
13 also Joint Status Report at 3, ECF No. 205. As previously
14 explained, this case “presents unique and novel constitutional
15 issues.” Order at 3. Proceeding with discovery amidst
16 uncertainty as to whether this Court’s orders will be affirmed
17 imposes a hardship upon the United States—particularly when the
18 Court of Appeals will soon clarify the legal landscape. Indeed,
19 the Ninth Circuit’s decision may, as the United States argues,
20 cause the issues now before this Court to “be subject to
21 modification or rendered moot.” Mot. at 3.

22 California maintains that the Ninth Circuit’s ruling “will
23 have no bearing on any potential discovery” because the appeal
24 “includes two entirely different statutes.” Opp’n at 6. This
25 argument fails to acknowledge that each of the claims—though
26 perhaps factually distinct—involve the same constitutional
27 issues and principles of law. The Ninth Circuit’s ruling may
28 measurably alter the posture of this case. Allowing this action

1 to move forward while that possibility looms in the background
2 risks unnecessary expense and hardship to both parties as they
3 may end up conducting discovery that ultimately falls outside
4 the scope of this litigation.

5 2. Granting a Stay Would Not Harm California

6 As the United States argues, California will not be harmed
7 if a stay is granted. Mot. 3-4. First, S.B. 54, A.B. 103, and
8 part of A.B. 450 will remain in force while the proceedings are
9 stayed. California argues that it is "already suffering
10 irreparable harm" as a result of this Court's injunction on some
11 of A.B. 450's provisions, and that this ongoing harm warrants
12 denying the stay. Opp'n at 4. But California's claimed
13 interest in "enforce[ing] portions of a duly enacted statute" is
14 undermined both by the state's failure to appeal the preliminary
15 injunction, and the lengthy timeline it proposes for proceeding
16 to trial. See Anderson v. City of Boston, 244 F.3d 236, 239
17 (1st Cir. 2001); Samayoa by Samayoa v. Chicago Bd. Of Educ., 783
18 F.2d 102, 104 (7th Cir. 1986); Cuomo v. Barr, 7 F.3d 17, 19 (2d
19 Cir. 1993); United States v. Washington, No. C70-9213RSM, 2013
20 WL 6328825, *8 (W.D. Wash. Dec. 5, 2013). See also Joint Status
21 Report at 3, ECF No. 205.

22 This Court is not persuaded by California's claim that the
23 stay will be so "indefinite" that it will threaten the State's
24 "ability to defend itself and test the United States'
25 allegations." See Opp'n at 4. California has not given any
26 reason why the United States' inability to provide a specific
27 end date for its appeal will necessarily result in the type of
28 delay seen in Dependable Highway Express, Inc. v. Navigators

1 Ins. Co., 498 F. 3d 1059 (9th Cir. 2007). There, the stay
2 continued for two years while litigants awaited the results of
3 an overseas arbitration. Id. at 1067. Indeed, as the United
4 States notes, there is "good reason to believe that the Ninth
5 Circuit appeal process would be brief," because the Ninth
6 Circuit rules require preliminary-injunction appeals to "receive
7 hearing or submission priority." Reply at 2. See also Ninth
8 Circuit Rule 34-3.

9 Finally, the Court is also not persuaded by California's
10 claim that putting discovery on hold "prevents [the state] from
11 presenting a defense." Opp'n at 4. This argument is rooted in
12 the Court's comment that "a more complete evidentiary record
13 could impact the Court's analysis." Id. See also PIO at 29-30.
14 The Court explained that "[n]either party provided the Court
15 with much information on how the verification system currently
16 works in practice and how the new law does or does not change
17 those practices." Id. But clarifying the law is just as
18 essential to this analysis as developing the facts. And
19 California fails to explain how issuing a brief stay to resolve
20 the legal issues would render any of its needed evidence stale.

21 3. Granting a Stay Promotes the "Orderly Course of
22 Justice"

23 Finally, denying a stay not only threatens hardship to the
24 United States, it threatens the "orderly course of justice."
25 See CMAX, Inc., 300 F.2d at 268. As the United States contends,
26 the Ninth Circuit "could definitively resolve some of the legal
27 issues in this case." Mot. at 2. This Court, in dismissing
28 some of the United States' claims, found that several of the

1 challenged statutory provisions were constitutional as a matter
2 of law. See MDO at 3-6. The Ninth Circuit is now in a position
3 to determine whether that decision was correct. The remaining
4 challenges will similarly rise or fall on this determination.
5 The “orderly course of justice” is not served by continuing down
6 the path of litigation without knowing whether the case is on
7 the right track.

8 The Court disagrees with California’s framing of this
9 factor. See Opp’n at 7-8. Awaiting a Supreme Court decision
10 that will neatly dispose of an entire case—as this Court did in
11 Sims v. AT&T Mobility Servs. LLC, No. 2:12-cv-02702-JAM-AC, 2013
12 WL 753496 (E.D. Cal. Feb. 27, 2013)—is certainly one way to
13 promote the orderly course of justice. But it is not the only
14 way. Similarly, the fact that Plaintiff’s appeal involves
15 different statutory provisions is not determinative. Contra
16 Opp’n at 8. The question is whether there is sufficient overlap
17 between the proceedings that waiting for one to be resolved
18 would work to simplify issues in the other or preserve judicial
19 resources. CMAX, Inc., 300 F.2d at 268. Cf. McMenemy v.
20 Colonial First Lending Grp., Inc., No. 2:14-cv-001482 JAM A,
21 2015 WL 1137344, at *2 (E.D. Cal. Mar. 12, 2015) (finding “no
22 reason for just delay” of plaintiff’s appeal because proceeding
23 to trial would have risked duplicitous proceedings).

24 Here, there is sufficient overlap and a stay will avoid
25 possible inconsistent decisions. As Plaintiff points out,
26 “without a stay there is a substantial risk of duplication of
27 proceedings and waste of judicial resources [if] the Court makes
28 determinations on a narrow portion of law before knowing whether

1 the other provisions of that and other laws will also be before
2 it." Mot. At 2. Therefore, a stay is warranted to preserve
3 judicial efficiency.

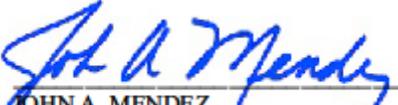
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III. ORDER

For the reasons set forth above, the Court GRANTS Plaintiff's Motion to Stay. The parties shall file a joint status statement no later than ten days after the appeal to the Ninth Circuit becomes final. The statement shall include specific proposals as to how the parties wish to proceed with the case at bar in light of the Ninth Circuit's order.

IT IS SO ORDERED.

Dated: October 18, 2018


JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE