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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NGV GAMING, LTD.,)	Case No. 04-3955 SC
)	
Plaintiff,)	
)	
v.)	ORDER GRANTING
)	DEFENDANT'S MOTION TO
)	<u>STAY PROCEEDINGS</u>
HARRAH'S OPERATING COMPANY, INC., a)	
Delaware Corporation,)	
)	
Defendant.)	
)	
_____)	

The present matter comes before the Court on the Motion to Stay Proceedings ("Motion") filed by the defendant Harrah's Operating Company, Inc. ("Harrah's" or "Defendant"). Docket No. 165. The plaintiff NGV Gaming, LTD. ("NGV" or "Plaintiff") submitted an Opposition and Harrah's filed a Reply. Docket Nos. 168, 173. Both parties also submitted additional briefing. See, e.g., Docket Nos. 170, 175, 177. For the following reasons, the Court GRANTS Harrah's Motion. Proceedings in the present action are STAYED pending the ruling by the United States Supreme Court on Harrah's petition for certiorari.

The facts of this case have been extensively briefed by both parties and have been recited in both this Court's previous Orders

1 and the Ninth Circuit's recent opinion by a divided panel
2 reversing this Court's Order denying NGV's motion for summary
3 judgment. See Guidiville Band of Pomo Indians v. NGV Gaming,
4 LTD., 531 F.3d 767 (9th Cir. 2008). The parties' familiarity with
5 the facts is therefore presumed. For present purposes, the Court
6 notes that Harrah's has filed a petition for certiorari with the
7 Supreme Court seeking review of the Ninth Circuit's decision.

8 Neither party disputes the fact that "[d]istrict courts have
9 inherent authority to stay proceedings before them." Rohan ex
10 rel. Gates v. Woodford, 334 F.3d 803, 817 (9th Cir. 2003) (citing
11 Landis v. N. Am. Co., 299 U.S. 248, 254 (1936)). "In deciding
12 whether to issue or grant a stay, a Court should weigh the
13 competing interests of the case, e.g., the possible hardship to
14 the parties, the orderly course of justice, and the possible
15 damage that may result from a delay." Bankston v. Bayer Corp.,
16 No. C-06-0783 SC, 2006 WL 889180, at *1 (N.D. Cal. Apr. 3, 2006).

17 After reviewing the arguments and evidence presented by both
18 parties, the Court finds that a stay will promote the orderly
19 course of justice without causing hardship to either party. In a
20 surreply filed without leave from the Court, NGV argues that it
21 might be prejudiced because of "the likelihood of an impending
22 insolvency at the time of any final judgment awarding monetary
23 damages to NGV." Docket No. 175. As Harrah's points out,
24 however, this claim is undercut by the very evidence presented and
25 relied upon by NGV.

26 Further supporting the stay is a recent decision by the
27 Second Circuit agreeing with the dissent and rejecting the
28

1 majority in the Ninth Circuit's decision in Guidiville, thereby
2 creating a possible circuit split. See Catskill Dev., L.L.C. v.
3 Park Place Entm't Corp., --- F.3d ---, Docket No. 06-5860, 2008 WL
4 4630309, at *7 (2nd Cir. Oct. 21, 2008)(citing the Honorable Judge
5 Smith's dissent in Guidiville). Although far from a sure thing,
6 this holding by the Second Circuit would tend to increase the
7 prospect for review of Guidiville by the Supreme Court.

8 For the reasons stated herein, the Court STAYS the
9 proceedings pending the Supreme Court's ruling on Harrah's
10 petition for certiorari.

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13 IT IS SO ORDERED.

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15 Dated: November 18, 2008



16 UNITED STATES DISTRICT JUDGE