

UNITED STATES DISTRICT COURT
For the Northern District of California

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UNITED STATES DISTRICT COURT
Northern District of California
San Francisco Division

TRANSAMERICA LIFE INSURANCE
COMPANY,

No. C 14-01881 LB

Plaintiff,

v.

GREGORY L. JURIN, et al.,

Defendants.

**ORDER GRANTING PLAINTIFF'S
REQUEST FOR LEAVE TO FILE
SUPPLEMENTAL BRIEFING
REGARDING DEFENDANTS'
MOTION TO DISMISS OR,
ALTERNATIVELY, TO STAY THIS
ACTION**

_____ /
In this action (Case No. C14-01881 LB), Plaintiff Transamerica Life Insurance Company has sued Gregory Jurin and James McCrea, alleging that they engaged in fraud and conspiracy to commit fraud by claiming benefits under Mr. Jurin's policy with Transamerica for long term care insurance. Transamerica seeks declaratory judgment that Mr. Jurin is not entitled to the benefits and damages for payments he allegedly fraudulently obtained. Mr. Jurin and Mr. McCrea moved to dismiss Transamerica's declaratory relief action on several grounds, including that the court should dismiss or, alternatively, stay the action in favor of a second action (formerly Case No. C14-02882 LB) that Mr. Jurin subsequently filed against Transamerica and Dr. Mohinder Nijjar in state court.

After Mr. Jurin and Mr. McCrea filed their motion to dismiss or stay, but before the court ruled on it, Transamerica removed the second action from state court to this court. In its order denying the motion, the court found the parties' arguments about whether the court should dismiss or stay the action in favor of the (former) state court action to be moot in light of that action being removed to

1 federal court, so the court never addressed this issue.

2 Mr. Jurin then filed a motion to remand the second action back to state court. After that action
3 was reassigned to the undersigned, the court granted that motion and remanded the action.

4 In light of the court's remanding the second action back to state court, Mr. Jurin and Mr. McCrea
5 filed in this action a motion for leave to file a motion for reconsideration. *See* Motion, ECF No. 42.
6 The court agreed with Mr. Jurin and Mr. McCrea that consideration of the parties' arguments about
7 whether the court should dismiss or stay the action in favor of the state court action is warranted.
8 Rather than have Mr. Jurin and Mr. McCrea file a motion for reconsideration, and given that the
9 parties already addressed this issue in their briefs in support of and in opposition to Mr. Jurin and
10 Mr. McCrea's motion to dismiss or stay, the court issued an order stating that it will simply look
11 back at that briefing and revisit those arguments. *See* 10/06/14 Order, ECF No. 45.

12 Nevertheless, Transamerica now has filed a request for leave to submit supplement briefing to
13 "address the elements of a request to stay" and provide the court "with additional authorities to
14 support its position." Motion for Leave to File Supplemental Briefing Regarding Defendant Jurin's
15 Request to Stay Case, ECF No. 46 at 1-2. Regarding this new request, the court still thinks that the
16 original briefing is sufficient to address the issue about dismissing or staying the case and the court
17 will review those briefs when addressing the issue. Nonetheless, the court will allow each party an
18 additional three double-spaced pages, only to "address the elements of a request to stay" and provide
19 the court "with additional authorities to support its position." *Id.*

20 Transamerica must file supplemental briefing by November 3, 2014. Mr. Jurin and Mr. Crea
21 must file by November 10, 2014.

22 **IT IS SO ORDERED.**

23 Dated: October 28, 2014



24 LAUREL BEELER
25 United States Magistrate Judge