

AMENDED MINUTES OF THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AMERITOX v. MILLENNIUM LABORATORIES CLINICAL SUPPLY Case No. 12cv2797 W(RBB)

Time Spent: _

HON. RUBEN B. BROOKS CT. DEPUTY VICKY LEE Rptr.

Plaintiffs Attorneys Defendants

PROCEEDINGS: ____ In Chambers ____ In Court ____ Telephonic

On November 8, 2013, Millennium Laboratories Clinical Supply, Inc. ("MLCS") filed an Emergency Motion for a Stay Pending the District Court's Ruling on the November 1, 2013 Emergency Ex Parte Application [ECF No. 50]. In this filing, MLCS states that on November 1, 2013, it filed an ex parte application with the district court to stay this Court's October 25, 2013 Order Granting [Ameritox]'s] Motion to Compel and Enforce February 19, 2013 Discovery Order [ECF No. 46]. MLCS contends that its "right to interpose meaningful Rule 72 Objections to the District Court by Friday November 8, 2013 (i.e., objections filed on a Friday are very unlikely to be ruled on by the following Monday) [the deadline for compliance with this Court's order][,]" rendering its right to object moot. (Millennium Labs. Clinical Supply Emergency Motion 2, ECF No. 50.)

Objections to this Court's February 13 or October 25, 2013 orders have not been filed. The twenty-six line Emergency Application is insufficient. MLCS has not met its burden of showing that a stay is appropriate. In ruling on a motion to stay, the Court determines (1) whether MLCS has made a strong showing that it is likely to succeed on the merits of its appeal, (2) if MLCS has demonstrated that it will be irreparably injured absent a stay, (3) whether the other interested parties will suffer substantial harm if a stay is imposed, and (4) if a stay is in the public interest. Hilton v. Braunskill, 481 U.S. 770, 776 (1987).

The Emergency Motion [ECF No. 50] is denied.

DATE: November 8, 2013

IT IS SO ORDERED: Ruben Brooks
Ruben B. Brooks,
U.S. Magistrate Judge
INITIALS: VL (mg) Deputy

cc: Judge Whelan
All Parties of Record