

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DAN NITA,

Plaintiff,

vs.

MACY'S WEST STORES, INC., et al.,

Defendants.


CASE NO. 18cv527-LAB (BGS)

ORDER GRANTING STAY [Dkt. 10]

The parties ask for a stay until Dan Nita files a demand for arbitration with the American Arbitration Association. The Court “shall on application of one of the parties stay the trial of the action until such arbitration has been had.” 9 U.S.C. § 3. But the “Ninth Circuit has held that § 3 does not impose a mandatory duty to stay on district courts. Thus, even where a party seeks a stay under § 3, the court has discretion to dismiss under Rule 12(b)(6) if it finds that all of the claims before it are arbitrable.” *KKE Architects, Inc. v. Diamond Ridge*, 2008 WL 637603, at *5 (C.D. Cal. Mar. 3, 2008) (citing cases). The Court agrees with the parties: all of the claims here are arbitrable. But the Court doesn’t want this case to sit on the docket. The case is stayed for one month. If Nita doesn’t file a demand for arbitration and a motion to dismiss this action by July 13, 2018, the Court will dismiss this case. The motion to compel arbitration is denied as moot. [Dkt. 9.]

IT IS SO ORDERED.

Dated: June 15, 2018



HONORABLE LARRY ALAN BURNS
United States District Judge