

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 07-cv-02471-PAB-KMT

THOMAS SILVERSTEIN,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS, sued in its official capacity,
JOHN VANYUR, former Assistant director, correctional Programs Division, Federal Bureau of
prisons; in his individual capacity,
JOYCE CONLEY, Assistant Director, Correctional Programs Division, Federal Bureau of
Prisons,
MICHAEL NALLEY, Regional Director, Federal Bureau of Prisons, in his official capacity,
DONALD DENNEY, Regional Psychology Administrator, North Central Region, Federal
Bureau of Prisons, in his individual and official capacities,
RONNIE WILEY, Warden, United States Penitentiary Administrative Maximum,
in his individual and official capacities,
MARIE BAILEY, Staff Psychologist, United States Penitentiary Administrative Maximum, in
her individual and official capacities, and
PAUL ZOHN, Staff Psychologist, United States Penitentiary Administrative Maximum, in his
individual and official capacities,

Defendants.

ORDER

This matter is before the court on “Defendants’ Motion for Protective Order and to Stay
Discovery.” [Doc. No. 160, filed May 19, 2009.] Plaintiff filed “Plaintiff’s Response in
Opposition to Defendants’ Motion for Protective Order and to Stay Discovery (Doc. 160” on
May 21, 2009 [Doc. No. 166] and Defendants replied on June 5, 2009 [Doc. No. 170].

Defendants request that discovery in this case, including at least thirteen planned depositions, be delayed until the four newly added defendants¹ are served and the time for their responsive pleading has run. Defendants have asserted that a stay of discovery would allow the newly added Defendants an opportunity to fully participate in the remaining discovery, including expert depositions. Plaintiff has objected to the abbreviated stay claiming that Plaintiff would be unduly prejudiced, in spite of the fact that Plaintiff has requested and received numerous stays and continuances of various pretrial dates in this case.

The Court finds that Defendants request is well-founded and based on legitimate needs and considerations in the case, while the Plaintiff's objection appears to be without reason or justification other than to be purely obstreperous. The addition of the new defendants was occasioned by the Plaintiff filing a Second Amended Complaint approximately one and one-half years after the case was originally opened. To argue that a stay of approximately sixty days to allow for service of the new defendants and provide for their need to resolve representation issues, decide on a defense strategy and to prepare and file appropriate responses to the Second Amended Complaint unduly prejudices the Plaintiff is disingenuous, at best.

Waivers of Service were filed by the Plaintiff for the four newly added defendants, indicating an effective date of service as May 19, 2009. [Doc. Nos. 171 - 174.] The Clerk has noted an Answer date of July 20, 2009. *Id.*

Therefore, it is **ORDERED**

¹Plaintiff's Motion to file a Second Amended Complaint was unopposed by Defendants and was granted on May 14, 2009. The Second Amended Complaint was filed the same day.

“Defendants’ Motion for Protective Order and to Stay Discovery” [Doc. No. 160] is **GRANTED**. Discovery in this matter is temporarily stayed through and including July 20, 2009.

It is further **ORDERED**

The status/scheduling conference now set for July 16, 2009 at 9:30 a.m. is **VACATED** and re-scheduled for **July 22, 2009 at 9:30 a.m.**

Dated this 8th day of July, 2009.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge