

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01734-WYD-KLM

JASON DEWEY, and
ALICIA DEWEY,

Plaintiff,

v.

DANIEL LAUER, and DANIEL LAUER & ASSOCIATES, LTD.,

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendants' **Motion to Compel Discovery** [Docket No. 66; Filed August 4, 2009] (the "Motion"). Plaintiffs filed a response in opposition to the Motion on August 26, 2009 [Docket No. 70] and Defendants filed a reply in support of the Motion on August 31, 2009 [Docket No. 71]. Defendants seek an order requiring the Plaintiff to respond to Defendant's Rule 33 interrogatories, Rule 34 request for production of documents and things and entry upon land for inspection and other purposes, and Rule 36(c) requests for admission of fact and genuineness of documents.

On June 16, 2009, Defendants served their discovery requests on Plaintiffs. *Motion* [#66] Ex. A, B, C. On July 23, 2009, Plaintiffs filed a Motion to Stay This Case Pending Disposition of Parallel State Court Litigation [#65]. The motion is pending before District Court Judge Arguello. Plaintiffs assert that because they have filed the motion to stay, they are not required to respond to Defendants' outstanding discovery requests. *Response* [#70] at 1. They also state that complying with the discovery requests "would subject the

plaintiffs to the burden of having to deal with discovery in this forum, only to have to repeat the same process in the state case.” *Id.* at 2. Defendants assert that the undecided motion to stay is no basis for refusing to provide discovery. *Motion* [# 66] at 3.

Plaintiffs have not cited any authority for the proposition that a motion to stay necessarily stays discovery in the case. In fact, D.C.COLO.L.CivR 30.2 provides that a deposition is stayed only where there is a “pending resolution of any motion under Fed. R. Civ. P. 26(c) or 30(d).” Plaintiffs’ motion to stay makes no mention of discovery disputes as a basis for granting the motion. Therefore, Plaintiffs are required to serve their answers and any objections to the Defendants’ discovery requests.

IT IS HEREBY **ORDERED** that the Motion is **GRANTED**.

IT IS FURTHER **ORDERED** that Plaintiffs shall respond to Defendants’ pending discovery requests on or before **October 8, 2009**.

IT IS FURTHER **ORDERED** that no opposed discovery motions are to be filed with the Court until the parties comply with D.C.COLO.L.CivR. 7.1(A). If the parties are unable to reach agreement on a discovery issue after conferring, they shall arrange a conference call with Magistrate Judge Mix to attempt to resolve the issue. Both of these steps must be completed before any contested discovery motions are filed with the Court.

Dated: September 9, 2009

BY THE COURT:

____s/Kristen L. Mix_____
United States Magistrate Judge

