

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00780-MSK-MJW

VON J. PHATHONG, and  
JENNIFER D. PHATHONG,

Plaintiffs,

v.

TESCO CORPORATION (US),

Defendant.

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**MINUTE ORDER**

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**Entered by Magistrate Judge Michael J. Watanabe**

It is hereby **ORDERED** that the Defendant's Motion to Stay Discovery and Motion for Protective Order Pending Resolution of Defendant's Motion for Summary Judgment (**docket no. 25**) is **DENIED**.

Here, the court finds that the Defendant has failed to demonstrate any real hardship or inequity if a stay is not granted. Ben Ezra, Weinstein, & Co. v. America Online Inc., 206 F.3d 980, 987 (10<sup>th</sup> Cir. 2000). In this case, discovery will need to be conducted concerning, but not limited to, issues involving (1) statute of limitations, (2) statutory employer, (3) equitable tolling, and (4) choice of law.

A stay of discovery is generally disfavored by the court. When considering a stay of discovery, the court may consider and weigh: "(1) the plaintiff's interests in proceeding expeditiously with the civil action and the potential prejudice to plaintiff of a delay; (2) the burden on the defendants; (3) the convenience to the court; (4) the interests of persons not parties to the civil litigation; and, (5) the public interest." Eggert ex rel. Eggert v. Chaffee County, Colo., 2010 WL 3359613, \*2 (D. Colo. Aug. 25, 2010). Weighing these factors, I find that a stay is not warranted. Accordingly, in this court's discretion and in the interest of justice pursuant to S.E.C. v. Nacchio, 2005 WL 1799372 (D. Colo. July 28, 2005), the Defendant's Motion to Stay Discovery and Motion for Protective Order Pending Resolution of Defendant's Motion for Summary Judgment (docket no. 25) should be denied.

Date: September 2, 2010

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