

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-00041-PAB-MJW

ARCHANGEL DIAMOND CORPORATION LIQUIDATING TRUST,

Plaintiff(s),

v.

OAO LUKOIL,

Defendant(s).

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Defendant Lukoil's Motion to Vacate Scheduling Conference (docket no. 20) is GRANTED for those reasons as stated within this subject motion (docket no. 20) which this court incorporates by reference. It is within the court's inherent power and discretion to modify the scheduling process under Fed. R. Civ. P. 16 when a motion is or going to be filed that attacks the court's jurisdiction, or when the plaintiff is seeking identical relief in another court. See 3 James W. Moore, et al., Moore's Federal Practice Civil § 16.12[3][b] (Matthew Bender 2012) ("a court might well decide to postpone decisions about scheduling if key defendants file an early and potentially meritorious motion attacking the court's jurisdiction. . . . It makes little sense to try to fix schedules for future events in a case where a real prospect exists that an early motion would result in dismissal. . . ."). See also Landis v. North American Co., 299 U.S. 248 (1936), which gives the trial court authority to stay proceedings in the court's discretion. Lastly, the court should address the jurisdictional issues [i.e. personal jurisdiction and *forum non conveniens*] prior to consideration on the merits. Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 583 (1999).

Accordingly, the Rule 16 Scheduling Conference set before Magistrate Judge Watanabe on March 15, 2012, at 9:00 a.m. is VACATED, and a STATUS CONFERENCE is set before Magistrate Judge Watanabe on April 24, 2012, at 1:30 p.m., in Courtroom A-502, Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado, 80294. By Minute Order of this court dated February 21, 2012 (docket no. 17), Defendant Lukoil's Motion to Dismiss shall be filed by March 22, 2012. Per the proffer by Defendant Lukoil, such Motion to Dismiss will be based on several grounds, including improperly duplicative litigation (claim splitting and the Colorado River Doctrine), lack of personal jurisdiction, *forum non conveniens*, and failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6).

It is FURTHER ORDERED that Plaintiff Archangel Diamond Trust Liquidating Trust's Motion for Sanctions for Defendant Oao Lukoil's Deliberate Refusal to Comply with the Court's January 23, 2012 Order (docket no. 18) is DENIED.

Date: March 6, 2012
