

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-00489-CMA-KLM

JOSE MEDINA ESCOBAR,

Plaintiff,

v.

ASSOCIATE WARDEN S. FOSTER,
DEPUTY DIRECTOR L. REID,
MAJOR L. MALFELD,
LIEUTENANT L. TRAVIS,
LIEUTENANT TEDEMANN,
LIEUTENANT BURKE,
CAPTAIN PADILLA,
CAPTAIN D. WILLIAMS,
SERGEANT MARQUEZ,
SERGEANT MONTGOMERY,
SERGEANT HAWKINS,
SERGEANT FRETWELL,
C/O CALDARONELLO,
C/O P. ARCHULETA,
C/O ALANIS,
C/O AURITI,
C/O SAUCIDO,
C/O KITCHEN,
C/O S. HARTUNG,
C/O MONTANEZ, and
C/O B. TETRICK,

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendants' **Motion to Stay Proceedings** [Docket No. 111; Filed May 13, 2013] ("Defendants' Motion") and Plaintiff's **Motion to Compel or Stay the Proceedings** [Docket No. 116; Filed May 28, 2013] ("Plaintiff's Motion" and, collectively with Defendants' Motion, the "Motions"). Both Motions request a

stay of the proceedings until the Court issues decisions regarding pending motions in this matter. Defendants' Motion was filed contemporaneously with its pending Motion to Dismiss Pursuant to 28 U.S.C.A. § 1915(E)(2)(B)(1) [#110] which was fully briefed and ripe for review as of June 6, 2013. Defendants argue that a stay is appropriate under the factors outlined in *String Cheese Incident, LLC v. Stylus Shows, Inc.*, No. 1:02-cv-01934-LTB-PAC, 2006 WL 894955, at *2 (D. Colo. Mar. 30, 2006) (unreported decision). Plaintiff requests a stay "until his motions for injunctive relief are heard." *Plaintiff's Motion* [#116] at 1. In the alternative, Plaintiff asks the Court to order Defendants to provide him with hygiene products. *Id.*

Although the stay of proceedings in a case is generally disfavored, the Court has discretion to stay discovery while a dispositive motion is pending. See *Wason Ranch Corp. v. Hecla Mining Co.*, No. 07-cv-00267-EWN-MEH, 2007 WL 1655362, at *1 (D. Colo. June 6, 2007) (unreported decision) ("A stay of all discovery is generally disfavored in this District." (citation omitted)); *String Cheese Incident, LLC*, 2006 WL 894955, at *2 (finding that a thirty day stay of discovery was appropriate when a motion to dismiss for lack of personal jurisdiction was pending); *Nankivil v. Lockheed Martin Corp.*, 216 F.R.D. 689, 692 (M.D. Fla. 2003) (A stay may be appropriate if "resolution of a preliminary motion may dispose of the entire action."); 8 Charles Alan Wright, et al., *Federal Practice and Procedure* § 2040, at 521-22 (2d ed. 1994) ("[W]hen one issue may be determinative of a case, the court has discretion to stay discovery on other issues until the critical issue has been decided."); *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 804 (Fed. Cir. 1999) ("When a particular issue may be dispositive, the court may stay discovery concerning other issues until the critical issue is resolved."); *Gilbert v. Ferry*, 401 F.3d 411, 415-16 (6th Cir. 2005) (finding that ordering a stay of discovery is not an abuse of


discretion when a defendant has filed a motion to dismiss challenging the court's actual subject matter jurisdiction); *Chavous v. D.C. Fin. Responsibility & Mgmt. Assistance Auth.*, 201 F.R.D. 1, 2 (D.D.C. 2005) ("A stay of discovery pending the determination of a dispositive motion is an eminently logical means to prevent wasting the time and effort of all concerned, and to make the most efficient use of judicial resources." (internal quotation omitted)). Here, a dispositive motion is pending and both parties are in favor of a stay. In addition, the Court finds that a stay will prevent the parties and the Court from needlessly expending time and resources while Defendants' Motion to Dismiss [#110] is adjudicated.

IT IS HEREBY **ORDERED** that Defendants' Motion [#111] is **GRANTED** and Plaintiff's Motion [#116] is **GRANTED in part** and **DENIED in part**. Accordingly,

IT IS FURTHER **ORDERED** that all disclosure and discovery is **STAYED** pending resolution of the Motion to Dismiss [#110].

Dated: June 10, 2013

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kristen L. Mix". The signature is written in a cursive, flowing style.

Kristen L. Mix
United States Magistrate Judge