

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

ANTHONY ROTONDO and
ANITA TSCHIDA,
Plaintiffs,
vs.
BLUE CROSS OF IDAHO,
Defendant.

Case 1:11-cv-00493-EJL-CWD
ORDER

On March 2, 2012, United States Chief Magistrate Judge Candy W. Dale issued a Report and Recommendation, recommending that Defendant’s Motion to Dismiss and in the Alternative Motion to Stay be granted in part. (Dkt. 24.) Any party may challenge a magistrate judge’s proposed recommendation by filing written objections within fourteen days after being served with a copy of the Magistrate Judges’ Report and Recommendation. *See* 28 U.S.C. § 636(b)(1)(C). The district court must then “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* The district court may accept, reject, or modify in whole or in part, the findings and recommendations made by the Magistrate Judge. *Id.*; *see also* Fed. R. Civ. P. 72(b). No objections to the Report and Recommendation were filed in this case and the time for doing so has passed. (Dkt. 24.)

DISCUSSION

This action involves the Plaintiffs claims that the Defendant insurer failed to pay for medications they claim are covered by their insurance policies. (Dkt. 1.) As a result, the pharmaceutical companies who provided Plaintiffs with their medications have not been paid for the medicine. Prior to this case being filed, these same pharmaceutical companies filed suit against

the Defendant's affiliate company in Iowa State Court for breach of contract on May 1, 2009.¹ The claims in the Iowa state case include the six invoices relating to Plaintiffs' claims brought in this action. In addition, the pharmaceutical companies have filed four other cases in various federal district courts on behalf of it and named individuals for the same nonpayment of claims by Defendant related to the same medication. Two of those four cases have been stayed similar to the request made in this case to await the outcome of the Iowa state case.

The Court has reviewed the Report and Recommendation, the parties' briefing on the Motion, and the entire record in this matter. Based upon this review, the Court finds the Report and Recommendation has correctly decided the Motion. Entry of a stay in this case is consistent with the relevant factors delineated in *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800 (1976) and incorporated by *Travelers Indem. Co. v. Madonna*, 914 F.3d 1364, 1367 (9th Cir. 1990). Accordingly, the Court will grant the alternative Motion to Stay the case based on the well-reasoned analysis and discussion contained in the Report and recommendation. (Dkt. 24.)

ORDER

Having conducted a *de novo* review of the Report and Recommendation, this Court finds that Chief Magistrate Judge Dale's Report and Recommendation is well founded in law and consistent with this Court's own view of the evidence in the record. Acting on the recommendation of Chief Magistrate Judge Dale, and this Court being fully advised in the premises, **IT IS HEREBY ORDERED** that the Report and Recommendation entered on March 2, 2012, (Dkt. 24), should be, and is hereby, **INCORPORATED** by reference and **ADOPTED** in its entirety.

THEREFORE, IT IS HEREBY ORDERED that Defendants' Motion to Dismiss and, in the Alternative Motion to Stay (Dkt. 6) is **GRANTED IN PART** and that this case be **STAYED** pending the outcome of the parallel Iowa State Court Case, *T. Zenon Pharmaceuticals, LLC d/b/a Pharmacy Matters et al. v. Wellmark, Inc., et al.*, in the Iowa district court for Johnson County, Case No. LACV070675.

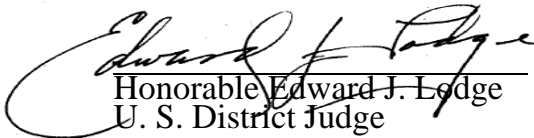
¹ The Complaint initiating this action was filed on October 19, 2011. (Dkt. 1.)

IT IS FURTHER ORDERED that the Clerk of the Court **CLOSE** this case for administrative purposes. Plaintiffs may move to reopen this case within thirty (30) days of the conclusion of the aforementioned Iowa State Court case.

IT IS FURTHER ORDERED that the Request for Judicial Notice (Dkt. 20) is **GRANTED**.

DATED: May 11, 2012




Honorable Edward J. Lodge
U. S. District Judge