

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

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|--|---|----------------------|
| IGOR KOZLOV, |) | |
| |) | |
| Plaintiff, |) | 4:10-cv-03211 |
| |) | |
| vs. |) | ORDER |
| |) | |
| ASSOCIATED WHOLESALE |) | |
| GROCERS, INC., et al., |) | |
| |) | |
| Defendants. |) | |
| ANDREI TCHIKOBAVA, |) | |
| |) | |
| Plaintiff, |) | 4:10-cv-03212 |
| |) | |
| vs. |) | ORDER |
| |) | |
| ASSOCIATED WHOLESALE |) | |
| GROCERS, INC., et al., |) | |
| |) | |
| Defendants. |) | |
| PAMELA SCOTT, Personal |) | |
| Representative of the Estate of Michael |) | |
| E. Scott, Deceased, |) | 8:10-cv-03191 |
| |) | |
| Plaintiff, |) | ORDER |
| |) | |
| vs. |) | |
| |) | |
| IGOR KOZLOV, ALBATROSS |) | |
| EXPRESS, LLC and UNICK, LLC, |) | |
| |) | |
| Defendants. |) | |

This matter is before the court on Pamela Scott’s (“Scott”) Second Motion Asking the Court to Lift the Stay in Her Civil Case. (Case No. 8:10CV3191, [filing 106](#).) For the reasons set forth below, Scott’s motion will be denied.

BACKGROUND

These consolidated civil cases arise out of a motor-vehicle accident that occurred on August 9, 2010, in Seward County, Nebraska. Subsequent to the initiation of this litigation, the Seward County Attorney filed a criminal complaint against Igor Kozlov (“Kozlov”) as a result of his involvement in the accident. On August 2, 2011, this court ordered that this litigation be stayed on account of the pendency of the criminal proceeding. The court reasoned that, absent a stay, Kozlov could potentially face a conflict between asserting his Fifth Amendment rights and damaging his civil defense. (Case No. 4:10CV3211, [filing 73](#); Case No. 4:10CV3212, [filing 76](#); Case No. 8:10CV3191, [filing 66](#).)

On December 12, 2011, Scott filed a motion to lift the stay (Case No. 8:10CV3191, [filing 78](#)). Scott’s motion was granted and discovery was allowed to proceed. The court did, however, bar testimonial evidence sought from Kozlov, as well as any other discovery that Kozlov demonstrates may unduly prejudice him. (Case No. 8:10CV3191, [filing 88](#).)

Scott has now filed a second motion requesting that the stay be lifted in its entirety. Scott argues that Kozlov is conducting discovery in both his criminal case and his civil case on the liability issues in his civil case while using the stay to prevent Scott from conducting similar discovery. In opposition to Scott’s motion, Kozlov asserts that the stay should remain in place because (1) nothing has changed since the time the court issued its last order regarding the matter and (2) Kozlov’s criminal trial is scheduled to begin in October, 2012, and discovery concerning other issues could take place until the trial concludes.

ANALYSIS

The court finds that its previous order precluding testimonial evidence from Kozlov and other discovery prejudicial to him should remain in place. With the October trial date approaching, the court believes that little will be gained from allowing full discovery at this time. The parties can seemingly complete other areas of discovery until the criminal trial is concluded. Also, importantly, on July 25, 2012, Scott filed an unopposed motion to file an amended complaint, which was granted. (Filing 115.) Scott filed an amended complaint on

July 26, 2012, which names additional parties. ([Filing 116.](#)) Given the introduction of additional parties, the fact that the criminal trial will begin in a couple months and, as previously found, the interest of safeguarding Kozlov's Fifth Amendment rights, Scott's motion will be denied.

Accordingly,

IT IS ORDERED that Pamela Scott's Second Motion Asking the Court to Lift the Stay in Her Civil Case (Case No. 8:10CV3191, [filing 106](#)) is denied.

DATED August 3, 2012.

BY THE COURT:

**S/ F.A. Gossett
United States Magistrate Judge**