

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

ERIC D. HAYES,)	
)	
Plaintiff,)	8:14CV339
)	
v.)	
)	
METROPOLITAN PROPERTY &)	ORDER
CASUALTY INSURANCE COMPANY,)	
)	
Defendant.)	
_____)	

This matter is before the Court on plaintiff's motion to stay proceedings pending appeal (Filing No. [29](#)) and motion to extend time to file interlocutory appeal (Filing No. [30](#)). The Court finds as follows.

Background

The plaintiff's amended complaint was filed on December 24, 2014, and alleges breach of contract and bad faith denial/ investigation. The plaintiff's claims arise out of a homeowners insurance policy which was issued to the plaintiff by the defendant. On January 24, 2013, the plaintiff's residence was destroyed by fire. The residence was insured under the homeowner's insurance policy.

The defendant moved to dismiss the amended complaint on January 7, 2015. The motion stated that the plaintiff's claim was time barred by the 12 month limitations period set forth in

the contract. The Court granted the motion in part and denied the motion in part. The Court found that the plaintiff's breach of contract claim was barred by the 12 month limitation period. The plaintiff now wishes to file a petition for interlocutory appeal and stay proceedings pending appeal.

Discussion

A federal district court "has broad discretion to stay proceedings as an incident to its power to control its own docket." *Clinton v. Jones*, 520 U.S. 681, 706 (1997). After reviewing the plaintiff's motion and applicable law, the Court will stay the proceedings pending appeal.

Rule 4(a) of the Federal Rules of Appellate Procedure provides that in a civil case, the notice of appeal must be filed with the clerk within 30 days after entry of judgment or order appealed from. The plaintiff's petition for interlocutory appeal shall be filed within 30 days of February 20, 2015. Accordingly,

IT IS ORDERED:

- 1) Plaintiff's motion to stay is granted.

2) Plaintiff's motion to extend time to file is denied.
The petition for interlocutory appeal must be filed within 30
days of February 20, 2015.

DATED this 3rd day of March, 2015.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court