

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SHANE BROOKS,)	Case No. 2:14-cv-00497-APG-CWH
Plaintiff,)	
vs.)	<u>ORDER</u>
LISA WALSH, <i>et al.</i> ,)	
Defendants.)	

Presently before the Court is Defendants’ Motion for Stay of Proceedings Pending Plaintiff’s Interlocutory Appeal Before the Ninth Circuit or, Alternatively, Motion for Third Extension of Time to File Motion for Summary Judgment (ECF No. 49), filed on January 5, 2016. Plaintiff’s deadline to respond to the motion has not yet expired.

Defendants request that the case be stayed pending the outcome Plaintiff’s interlocutory appeal of various orders in this case. (*See* Notice of Appeal (ECF No. 41); Am. Notice of Appeal (ECF No. 47).) Although Defendants cite legal authority indicating the Court has the authority to stay a case for the purpose of judicial economy pending arbitration and indicating that the Court has broad discretion in supervising the pretrial phase of litigation, Defendants do not provide any legal authority regarding whether it is appropriate to stay a case pending an interlocutory appeal.

Alternatively, Defendants request that the Court extend the dispositive motions deadline, which expired on January 14, 2016, by a minimum of 30 days. Defendants state that there is good cause for the requested extension and excusable neglect for their untimely motion because their counsel recently was hired by the Office of the Attorney General, was assigned to 22 cases in

1 various stages of litigation, was out of town over the holidays on a pre-paid vacation, and is
2 inundated with a large number of court hearings and deadlines in other cases.¹

3 Local Rule 26-4 requires all motions to extend a deadline set forth in a scheduling order to
4 be filed no later than 21 days before the expiration of the subject deadline. Part of the underlying
5 rationale for Local Rule 26-4 is to avoid the situation in which the Court currently finds itself:
6 having to attempt to decide a motion to extend a deadline before there has been time for the
7 opposing party to respond to the motion. Given that Defendants did not file their motion 21 days
8 before the expiration of the dispositive motions deadline, Plaintiff's deadline to respond to the
9 motion, which currently is January 22, 2016, has not yet run.

10 Given that the dispositive motions deadline has expired, and that Plaintiff has not yet had an
11 opportunity to respond to the motion, the Court temporarily will stay this case pending the Court's
12 order on this motion. During the temporary stay, the Court will require Defendants to file a
13 supplemental brief with legal authority addressing the specific issue of whether a stay pending an
14 interlocutory appeal is appropriate. The Court will provide Plaintiff with additional time to
15 respond to Defendants' motion and supplemental brief. In its order on the motion, the Court will
16 set a new dispositive motions deadline, if necessary.

17 IT IS THEREFORE ORDERED that this case is temporarily stayed pending the Court's
18 decision on Defendants' Motion for Stay of Proceedings Pending Plaintiff's Interlocutory Appeal
19 Before the Ninth Circuit or, Alternatively, Motion for Third Extension of Time to File Motion for
20 Summary Judgment (ECF No. 49).

21 IT IS FURTHER ORDERED that Defendants must file a supplemental brief on the specific
22 issue of whether a stay pending an interlocutory appeal is appropriate by January 26, 2016.

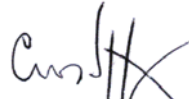
23 IT IS FURTHER ORDERED that Plaintiff must respond to Defendants' Motion for Stay of
24 Proceedings Pending Plaintiff's Interlocutory Appeal Before the Ninth Circuit or, Alternatively,

25
26 ¹ The Court notes that Defendants' former counsel also filed an untimely motion (ECF No. 39)
27 to extend the dispositive motions deadline, stating that excusable neglect existed for the untimely motion
28 because counsel had been out of the office unexpectedly and was inundated with a large number of court
hearings and deadlines in other cases. The Court granted that motion and set the dispositive motions
deadline for January 14, 2016. (Order (ECF No. 43).)

1 Motion for Third Extension of Time to File Motion for Summary Judgment (ECF No. 49) and
2 Defendants' supplemental brief by February 12, 2016.

3 IT IS FURTHER ORDERED that Defendants may file a reply in support of their motion by
4 February 22, 2016.

5
6 DATED: January 19, 2016.

7
8 

9
10

11 **C.W. Hoffman, Jr.**
12 **United States Magistrate Judge**