

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

INCREDIBLE INVESTMENTS LIMITED,

Plaintiff,

**ORDER TO SHOW CAUSE
WHY THIS ACTION SHOULD
NOT BE STAYED**

v.

09-CV-00576-JTC-JJM

FRANK PARLATO, JR., et al.,

Defendants.

“It is well-settled that a district court has discretionary power to stay proceedings pursuant to its inherent power to control its docket Indeed, the Court may, in the interests of justice, stay proceedings *sua sponte*.” City of New York v. Gutlove & Shirvint, Inc., 2008 WL 4862697, *1 (E.D.N.Y. 2008).

Although I had previously denied (without prejudice to renewal) defendants’ motion to dismiss this action in favor of the pending state action [94, 107, 108, 128], I had not been asked to *stay* the action. Particularly in light of recent developments (including the filing of a “Second Amended Verified Answer with Affirmative Defenses and Counterclaims” in state court on January 11, 2012), it seems to me that a stay may now be appropriate. *See Annotation*: “Stay of Action in Federal Court Until Determination of Similar Action Pending in State Court”, 5 A.L.R. Fed. 10.

Therefore, in addition to the issues scheduled for oral argument on March 14, 2012, the parties should also be prepared to address at that time why this action should not be stayed pending the conclusion of the state litigation, in view of the substantial overlap in issues and parties in the two actions. If so inclined, the parties may also address this issue in writing on

or before March 14, 2012 at noon. If necessary, post-argument submissions on that issue may also be allowed.

SO ORDERED

Dated: March 9, 2012

/s/ Jeremiah J. McCarthy
JEREMIAH J. MCCARTHY
United States Magistrate Judge