

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:11-CV-529-FDW-DCK**

JOHN WASHINGTON, JR.,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
MARTIN MARIETTA MATERIALS, INC.,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on *pro se* Plaintiff’s “Motion To Dismiss ” (Document No. 6) filed November 14, 2011. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the undersigned will grant the motion, with modification.

As an initial matter the undersigned notes that though captioned as a motion to dismiss, the relief Plaintiff seeks is “a stay of proceedings for 90 days in order to allow [him] to recover medically and find counsel.” (Document No. 6, p.2). Plaintiff’s request to dismiss pursuant to Rule 41(a)(2) is actually presented as an alternative request, *if* the Court declines to issue a stay. *Id.* As such, the undersigned will construe *pro se* Plaintiff’s pending motion as a “Motion To Stay.”

Defendant, having received Plaintiff’s motion before the Court received it, consented to dismissal before Plaintiff’s motion was even filed. (Document No. 5). Defendant asserts that a dismissal would better accomplish the goal of judicial efficiency than a stay of the proceedings. *Id.* Under the circumstances of this case, the undersigned respectfully disagrees.

For good cause shown, the undersigned will order a stay of all proceedings. At the end of the stay, the parties shall file a certification of initial attorney’s conference, whether or not Plaintiff

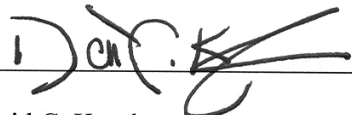
has hired counsel.

IT IS, THEREFORE, ORDERED that Plaintiff's "Motion To Dismiss," construed by the Court as a "Motion To Stay" (Document No. 6), is **GRANTED**. This matter is **STAYED** until **February 3, 2012**.

IT IS FURTHER ORDERED that on or before **February 3, 2012**, the parties shall file a Certification of Initial Attorney's Conference pursuant to Local Rule 16.1.

SO ORDERED.

Signed: December 6, 2011



David C. Keesler
United States Magistrate Judge

