

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

CHARLES DIPASQUALE,

Plaintiffs,

Case No. 3:16-cv-219

vs.

DETECTIVE JAMES HAWKINS, *et al.*,

District Judge Thomas M. Rose

Magistrate Judge Michael J. Newman

Defendants.

ORDER AND ENTRY: (1) GRANTING PLAINTIFF’S MOTION FOR A STAY (DOC. 51) AND STAYING DISCOVERY IN THIS CASE PENDING A DECISION BY THE OHIO SECOND DISTRICT COURT OF APPEALS; (2) ORDERING PLAINTIFF TO FILE A NOTICE ADVISING OF SUCH DECISION WITHIN 7 DAYS OF ITS ENTRY; (3) ORDERING THE PARTIES TO MEET, CONFER AND FILE AN AMENDED RULE 26(f) REPORT WITHIN 21 DAYS FOLLOWING THE FILING OF PLAINTIFF’S NOTICE; AND (4) DIRECTING PLAINTIFF TO FILE A WRITTEN MOTION FOR RECONSIDERATION AND/OR TO CLARIFY THE COURT’S ORDER ON DEFENDANTS’ RULE 12(c) MOTIONS WITHIN 14 DAYS FROM THE ENTRY OF THIS ORDER

This civil case is before the Court on Plaintiff’s motion to stay this case pending resolution of a companion case currently pending in the Ohio Second District Court of Appeals. Doc. 51. Defendant Hawkins opposes Plaintiff’s motion. Doc. 53. Defendants Herres and Proctor do not oppose Plaintiff’s motion. The Court heard extensive argument from counsel for all parties on Plaintiff’s motion by telephone on October 5, 2017. Attorneys Larry Greger, Katherine Epling, Anne Frayne, and Ronald Ruppert participated. Plaintiff’s motion for stay is now ripe for decision.¹

¹ In Plaintiff’s recently-filed motion to stay (doc. 51 at PageID 364), reference is made to “Magistrate,” instead of “Magistrate Judge.” All counsel are reminded that the proper and respectful term is “Magistrate Judge.” See 28 U.S.C § 636(b); see also *Weidman v. Colvin*, 164 F. Supp.3d 650, 653 n.1 (M.D. Pa. Sept. 30, 2015) (stating that “[t]he title magistrate no longer exists in the U.S. Courts, having been changed from “magistrate” to “magistrate judge” in 1990). Accordingly, all future filings shall refer to “Magistrate Judge” or “Your Honor.”

The undersigned **ORDERS** as follows:

- (1) For good cause shown, Plaintiff's motion for a stay (doc. 51) is **GRANTED** and discovery in this case is hereby **STAYED** pending a decision by the Ohio Second District Court of Appeals;
- (2) Plaintiff is **ORDERED** to file a notice with the Court within **7 days** from the entry of a decision by the Ohio Second District Court of Appeals advising the Court and counsel of such that such decision has been entered;
- (3) All parties are **ORDERED** to meet and confer within **21 days** following the filing of Plaintiff's notice and to file an amended Rule 26(f) report with the Court;
- (4) In light of Plaintiff's oral motion to reconsider and/or clarify the Decision regarding Defendants' Rule 12(c) motions, Plaintiff is **ORDERED** to file a formal written motion in this regard setting forth argument and citation to authority within **14 days** from the entry of this Order; Defendants may file memoranda in opposition within **14 days** from the filing of Plaintiff's motion; and Plaintiff may file a reply within **7 days** from the filing of Defendants' memoranda.

IT IS SO ORDERED.

Date: October 6, 2017

s/ Michael J. Newman
Michael J. Newman
United States Magistrate Judge