

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

FILED  
SCRANTON

JAN 06 2017


TONY L. MUTSCHLER,

Plaintiff,

v.

CAPT. S. M. DOWNS, et al.,

Defendants.

PER   
DEPUTY CLERK

CIVIL NO. 3:15-CV-2015


(Judge Kosik)

ORDER

AND NOW, THIS 6<sup>th</sup> DAY OF JANUARY, 2017, IT IS HEREBY

**ORDERED AS FOLLOWS:**

1. Plaintiff's "Petition to Move Forward" (Doc. 40) is construed as a motion to lift the previously imposed stay and is **GRANTED**. The Clerk of Court is directed to **LIFT THE STAY** in this case.
2. The parties are to complete all discovery in this matter on or before March 6, 2017. Any dispositive motions are to be filed on or before April 6, 2017.
3. The Clerk of Court is directed to **STRIKE** from the record and **RETURN** to Plaintiff his filing entitled "Motion In Opposing Defendant 12(b)(6) Motion."<sup>1</sup> (Doc. 39.)

  
EDWIN M. KOSIK  
United States District Judge

<sup>1</sup> The only remaining Defendant in this action is Defendant Downs, who filed an Answer to the amended complaint on December 7, 2016 (Doc. 37). No motion to dismiss has been filed. Although Plaintiff titles his filing as opposition to a motion to dismiss, and it has been docketed by the Clerk's Office as a "Traverse," it is clearly a response to Defendant's Answer. Such a filing is not permitted in that the Answer does not contain a counterclaim. It only responds to the amended complaint and raises affirmative defenses. As such, Plaintiff's filing is an improper filing. See Fed. R. Civ. P. 7(a).