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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

WILLIAM ANTHONY COLÓN,
Plaintiff

v.

RUBÉN BLADES, ROBERTO
MORGALO, MARTÍNEZ MORGALO &
ASSOCIATES,
Defendants

RUBÉN BLADES,
Cross-Plaintiff

v.

ROBERT MORGALO, in his personal
capacity and as owner and member
of MARTÍNEZ, MORGALO &
ASSOCIATES, LLC; MARTÍNEZ,
MORGALO & ASSOCIATES, LLC,
Cross-Defendants

ROBERT J. MORGALO,
Plaintiff

v.

RUBÉN BLADES, RUBÉN BLADES
PRODUCTIONS, INC.,
Defendants

CIVIL 07-1380 (JA)

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4 OPINION AND ORDER

5 This matter is before the court on motion to stay proceedings filed by cross-
6 claim defendant Robert J. Morgalo ("Mr. Morgalo") on May 10, 2010. (Docket No.
7 200.) The motion was opposed by cross-claimant Rubén Blades ("Mr. Blades") on
8 May 11, 2010. (Docket No. 203.) For the reasons set forth below, Mr. Morgalo's
9 motion is DENIED.
10

11 I. OVERVIEW

12 Along with the motion to stay, Mr. Morgalo also filed two notices of appeal
13 on May 10. (Dockets Nos. 198 & 199.) The notices addressed an Opinion and
14 Order entered on April 28, 2010, and an Opinion and Order entered on April 14,
15 2010. (Id.) Specifically, Mr. Morgalo claims that because the Opinion and Order
16 of April 14, 2010, precludes him from presenting the documents requested by Mr.
17 Blades and/or any testimony related to them, the jury's perception of the facts in
18 the case during trial will be affected. (Docket No. 199, at 2, ¶¶ 4 & 5.) Mr.
19 Morgalo argues that as a result he will not be able to adequately defend himself
20 against Mr. Blades' allegations during trial. (Docket No. 200, at 2, ¶ 6.) He
21 believes that if the appeal is decided in his favor, his participation at trial will
22 materially change since he will be able to present the evidence to the jury in
23 support of his arguments. (Id. at 3, ¶ 9.) Mr. Morgalo therefore requests that the
24 court order a stay of proceedings until the appeals are addressed. (Id.) Mr.
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4 Blades argues that Mr. Morgalo's motion for stay must be denied because it fails
5 to demonstrate that: (1) he will likely succeed on appeal; (2) absent the stay he
6 will be irreparably injured; (3) issuing the stay will not substantially cause any
7 injury to Mr. Blades. (Docket No. 203.)

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9 II. ANALYSIS

10 "As a general rule, interlocutory orders are not immediately appealable
11 because they lack the requisite finality." Torres v. Puerto Rico, 485 F.3d 5, 8 (1st
12 Cir. 2007). However, an interlocutory order may be appealed if it "involves a
13 controlling question of law as to which there is substantial ground for difference
14 of opinion and that an immediate appeal from the order may materially advance
15 the ultimate termination of the litigation." U.S. Fidelity & Guar. Co. v. Arch Ins.
16 Co., 578 F.3d 45, 53 n.10 (1st Cir. 2009) (quoting 28 U.S.C. § 1292(b)). Also,
17 an interlocutory order may be reviewable under the "collateral order" doctrine.
18 Auwah v. Coverall N. Am., Inc., 585 F.3d 479, 480 (1st Cir. 2009) (citing Cohen
19 v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-47 (1949); Gill v. Gulfstream
20 Park Racing Ass'n, Inc., 339 F.3d 391, 398 (1st Cir. 2005)). In order to qualify
21 for review under the collateral order doctrine, the collateral issue must:
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25 (1) [be] so conceptually distinct from other issues being
26 litigated in the underlying action that an immediate
27 appeal would neither disrupt the main action, nor
28 threaten to deprive the appellate court of useful context
which might be derived from subsequent developments
in the litigation; (2) completely and conclusively resolve

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3 the collateral issue; (3) infringe rights which appellant
4 could not effectively vindicate in an appeal after final
5 judgment in the case; and (4) involve an important or
6 unsettled legal issue, rather than merely challenge
discretionary trial court rulings.

7 United States v. Carpenter, 494 F.3d 13, 25 (1st Cir. 2007) (quoting United States
8 v. Kouri-Pérez, 187 F.3d 1, 5 (1st Cir. 1999)).

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10 In this case, stay of the proceedings is not warranted because review of the
11 court's orders under 28 U.S.C. § 1292(b) on the "collateral order" doctrine has no
12 basis in law. It is well settled that the party who is seeking appellate review has
13 the burden of convincing not only the district court, but also the appellate court,
14 that the section 1292(b) criteria is met. Camacho v. P.R. Ports Auth., 267 F.
15 Supp. 2d 174, 177 (D.P.R. 2003) (citing Estates of Ungar ex rel. Strachman v.
16 Palestinian Auth., 228 F. Supp. 2d 40, 50 (D.R.I. 2002)). However, Mr. Morgalo
17 has neither requested the certification to appeal the interlocutory orders nor has
18 he presented any legal argument in favor of a section 1292(b) certification. Mr.
19 Morgalo has failed to demonstrate that review under the "collateral order" doctrine
20 is warranted.
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23 Regardless, even assuming that the court's orders are reviewable it does not
24 change the fact that a stay should not be issued. The Court of Appeals for the
25 First Circuit has held that "the issuance of a stay [pending appeal] depends on
26 whether the harm caused [movant] without the [stay], in light of the [movant's]
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3 likelihood of eventual success on the merits, outweighs the harm the [stay] will
4 cause [the non-moving party].” Berberena-García v. Avilés, 258 F.R.D. 42, 43
5 (D.P.R. 2009) (quoting Acevedo-García v. Vera-Monroig, 296 F.3d 13, 16-17 (1st
6 Cir. 2002) (citing United Steelworkers of Am. v. Textron, Inc., 836 F.2d 6, 7 (1st
7 Cir. 1987) (internal quotations omitted)). None of these factors weighs in favor
8 of staying the proceedings.
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11 Mr. Morgalo has failed to show that there is a likelihood that he will prevail
12 on appeal. Contrariwise, Mr. Morgalo has acknowledged that the likelihood that
13 he will succeed is more improbable than probable. (Docket No. 200, at 3, ¶ 9.)
14 Other than claiming that by not being able to present any evidence and/or
15 testimony related to the documents requested by Mr. Blades the jury’s perception
16 of the facts will be affected, Mr. Morgalo has not shown that without the issuance
17 of the stay he will suffer any significant prejudice. The fact is that if Mr. Morgalo
18 understands that he is not able to properly defend himself from Mr. Blades’
19 allegations during trial, he will still be able to vindicate his rights after a final
20 judgment is entered. See Faigin v. Kelly, 184 F.3d 67, 79-80 (1st Cir. 1990); see
21 also Awuah v. Coverall N. Am., Inc., 585 F.3d at 481-82 (holding that courts
22 regularly deny interlocutory appeals in which litigants seek to challenge discovery
23 orders).
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4 Mr. Morgalo has not shown that Mr. Blades will not be prejudiced if the stay
5 were to be issued. However, such prejudice will be caused if the stay is granted
6 since it "would do little more than insert a monkey wrench into the machinery of
7 the ongoing litigation." Bank of N.Y. v. Hoyt, 108 F.R.D. 184, 190 (D.R.I. 1985).
8 This case is three years old. This fact alone demonstrates that not only will Mr.
9 Blades' interests be affected but so will the public's interest as well, if a stay were
10 to be issued.
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12 III. CONCLUSION

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14 For the reasons set forth above, Mr. Morgalo's motion to stay proceedings
15 is hereby DENIED.

16 At San Juan, Puerto Rico, this 13th of May, 2010.
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18 S/ JUSTO ARENAS
19 Chief United States Magistrate Judge
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