

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)

vs.)

C.A. No. 09-470-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., HARRISON CONDIT,)
and FORTUNE FINANCIAL SERVICES,)
INC.,)
Defendants;)

EMERGENCY MOTION

TRANSAMERICA LIFE INSURANCE)
COMPANY,)
Plaintiff,)

vs.)

C.A. No. 09-471-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., ESTELA)
RODRIGUES, EDWARD MAGGIACOMO,)
JR., LIFEMARK SECURITIES CORP., and)
PATRICK GARVEY,)
Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)

vs.)

C.A. No. 09-472-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., ADM ASSOCIATES,)
LLC, EDWARD HANRAHAN, THE)
LEADERS GROUP, INC., and CHARLES)
BUCKMAN,)
Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)

Plaintiff,)

vs.)

C.A. No. 09-473-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., DK LLC, EDWARD)
HANRAHAN, THE LEADERS GROUP,)
INC., and JASON VEVEIROS,)

Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)

Plaintiff,)

vs.)

C.A. No. 09-502-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., NATCO PRODUCTS)
CORP., EDWARD HANRAHAN, and THE)
LEADERS GROUP, INC.,)

Defendants;)

TRANSAMERICA LIFE INSURANCE)
COMPANY,)

Plaintiff,)

vs.)

C.A. No. 09-549-S

LIFEMARK SECURITIES CORP., JOSEPH)
CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC. and EDWARD)
MAGGIACOMO, JR.,)

Defendants; and)

Dated: Providence, Rhode Island
December 5, 2011

JOSEPH CARAMADRE, RAYMOUR
RADHAKRISHNAN, ESTELLA RODRIGUES
AND ADM ASSOCIATES, LLC,
By their Attorneys,

/s/ Adam M. Ramos
Robert G. Flanders, Jr. (# 1785)
Adam M. Ramos (#7591)
HINCKLEY, ALLEN & SNYDER LLP
50 Kennedy Plaza, Suite 1500
Providence, RI 02903
Telephone: (401) 274-2000
Facsimile: (401) 277-9600
Email: rflanders@haslaw.com
aramos@haslaw.com

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2011, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

/s/ Adam M. Ramos

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)
vs.)

C.A. No. 09-470-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., HARRISON CONDIT,)
and FORTUNE FINANCIAL SERVICES,)
INC.,)
Defendants;)

EMERGENCY MOTION

TRANSAMERICA LIFE INSURANCE)
COMPANY,)
Plaintiff,)
vs.)

C.A. No. 09-471-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., ESTELA)
RODRIGUES, EDWARD MAGGIACOMO,)
JR., LIFEMARK SECURITIES CORP., and)
PATRICK GARVEY,)
Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)
vs.)

C.A. No. 09-472-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., ADM ASSOCIATES,)
LLC, EDWARD HANRAHAN, THE)
LEADERS GROUP, INC., and CHARLES)
BUCKMAN,)
Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)

Plaintiff,)

vs.)

C.A. No. 09-473-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., DK LLC, EDWARD)
HANRAHAN, THE LEADERS GROUP,)
INC., and JASON VEVEIROS,)

Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)

Plaintiff,)

vs.)

C.A. No. 09-502-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., NATCO PRODUCTS)
CORP., EDWARD HANRAHAN, and THE)
LEADERS GROUP, INC.,)

Defendants;)

TRANSAMERICA LIFE INSURANCE)
COMPANY,)

Plaintiff,)

vs.)

C.A. No. 09-549-S

LIFEMARK SECURITIES CORP., JOSEPH)
CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC. and EDWARD)
MAGGIACOMO, JR.,)

Defendants; and)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)
))
vs.)
))
JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., HARRISON CONDIT,)
and FORTUNE FINANCIAL SERVICES,)
INC.,)
Defendants.)
)

C.A. No. 09-564-S

**MEMORANDUM OF LAW IN SUPPORT OF
EMERGENCY RENEWED MOTION FOR PARTIAL STAY OF
DEFENDANTS JOSEPH CARAMADRE, RAYMOUR RADHAKRISHNAN,
ESTELLA RODRIGUES AND ADM ASSOCIATES, LLC**

Defendants Joseph Caramadre, Raymour Radhakrishnan, Estella Rodrigues and ADM Associates, LLC (“ADM”) (collectively, “Moving Defendants”) submit this memorandum of law in support of their emergency renewed motion for a partial stay of the proceedings in these related civil matters pending resolution of the related criminal matter *United States v. Caramadre et al.*, CR No. 11-186. For the reasons set forth herein, the Court should stay the proceedings pending the outcome of the related criminal proceedings.

I. INTRODUCTION

Defendants Caramadre and Radhakrishnan, along with Defendants Edward Hanrahan, Edward Maggiacomo, Jr. and Harrison Condit, previously moved this Court to stay these seven related civil matters.¹ One of the bases for the previous motions to stay was the pendency of a

¹ Moving Defendants hereby incorporate the arguments set forth in the Consolidated Memorandum of Law in Support of Defendants Joseph A. Caramadre, Edward Hanrahan, Raymour Radhakrishnan, Edward Maggiacomo, and Harrison Condit’s Motions to Stay. *See, e.g.*, Case 1:09-cv-00471-S-DLM, Document 48-1. All the arguments as to why the Court should stay the case during the pendency of the grand jury investigation apply with even greater force now that the United States Attorney for the District of Rhode Island issued an indictment against the Mr. Caramadre and Mr. Radhakrishnan. The Consolidated Memorandum of Law is attached as Exhibit A.

grand jury investigation related to these civil proceedings. The Court never decided those motions to stay. Instead, the Court urged the parties to reach an agreement on how to proceed. Consequently, the parties agreed to the Initial Case Management Order entered by this Court on September 13, 2010. The Court entered an order finding the motions to stay moot on May 31, 2011.

The purpose of the Initial Case Management Order was to protect the Mr. Caramadre and Mr. Radhakrishnan, as well as other potential targets of the criminal investigation, against prejudice to their constitutional rights in the criminal proceeding because of the litigation of the civil proceeding. At the time the Court entered the Initial Case Management Order, the parties and the Court contemplated that the issuance of an indictment would be cause to revisit whether the Court should stay the civil matters.

On November 17, 2011, the United States Attorney for the District of Rhode Island issued an indictment against the Mr. Caramadre and Mr. Radhakrishnan. They are now defendants in *United States v. Caramadre et al.*, CR No. 11-186. Their ability to defend themselves in the criminal prosecution will be unfairly compromised if the Court does not stay these civil proceedings during the pendency of the criminal action. These civil actions will impose onerous practical burdens on Mr. Caramadre and Mr. Radhakrishnan and undermine their Fifth and Sixth Amendment rights.

Allowing the civil lawsuits to proceed also will undermine the public interest in effective prosecution and the protection of the rights of criminal defendants generally. Considerations of judicial convenience and efficiency also warrant the granting of a stay. Finally, the Plaintiff's interest in the resolution of this civil case also cuts in favor of granting the stay. Indeed, staying

this action in deference to the ongoing criminal proceedings may facilitate later discovery of key defense witnesses and open a swifter path to resolution.

The Court, however, should not stay its consideration of the pending motions to dismiss. Moreover, if the Court's decision on the pending motions to dismiss results in the dismissal of claims against only some of the defendants, the Court also should not stay the ability of those defendants to pursue final judgment on those claims pursuant to Fed. R. Civ. P. 54(b). Interests of justice and fairness call for final resolution of these matters with regard to defendants against whom plaintiffs have not asserted a legally cognizable claim.

Accordingly, the Moving Defendants renew their request to this Court that it stay the civil proceedings, in part, until the criminal matter is resolved.

II. FACTUAL BACKGROUND

The civil complaints allege that the Moving Defendants (along with others) acted improperly in connection with the purchase of annuities from Plaintiffs Western Reserve Life Assurance Company of Ohio ("WRL") and Transamerica Life Assurance Company ("TLA"). Specifically, WRL and TLA allege that Defendants Caramadre and Radhakrishnan acted fraudulently because they submitted annuity applications that did not disclose that the annuitants were terminally ill and that the beneficiaries of the annuities had no pre-existing relationship with the annuitants. On November 17, 2011, the United States Attorney for the District of Rhode Island (the "United States") filed a criminal indictment against Defendants Caramadre and Radhakrishnan. The factual allegations in the indictment are, in part, practically identical to the factual allegations in support of the claims of WRL and TLA in these civil suits. *See, e.g.*, Indictment at ¶¶ 27-46.

III. ARGUMENT

Mr. Caramadre and Mr. Radhakrishnan undeniably face an enormous and unfair burden if forced to defend both the criminal indictment and the civil actions simultaneously. They correctly seek to focus their limited resources on defense of the criminal charges against them. As such, Mr. Caramadre and Mr. Radhakrishnan should not be saddled with the burden of managing the civil defense concurrently with the criminal defense. Moreover, the Court also should stay the civil proceedings against the other defendants. The alleged conduct of all the other defendants is inextricably intertwined with the alleged conduct of Mr. Caramadre and Mr. Radhakrishnan. It would be impossible to proceed at all with the civil matters without unfairly burdening Mr. Caramadre and Mr. Radhakrishnan.

In particular, the Court recently ordered Defendant Estate Planning Resources (“EPR”) to answer interrogatories propounded by the plaintiffs in each of these matters. The answers to those interrogatories are due on December 12, 2011. The subject matter of those interrogatories relates directly to subject matter of the criminal indictment. Responses to those interrogatories by EPR will unfairly prejudice Mr. Caramadre and Mr. Radhakrishnan by granting the prosecution in the criminal matter access to discovery that it might otherwise not be able to obtain in the criminal proceeding. In the face of the criminal indictment, the Mr. Caramadre and Mr. Radhakrishnan understandably are focused on their criminal defense and should not be burdened with (1) litigating the civil actions in their own right, (2) assisting with the litigation of the civil actions by other parties that rely upon them, or (3) assessing and analyzing how the actions of the civil litigation affect and interfere with the mounting of their criminal defense.

Moreover, a stay of the civil proceedings would serve to conserve judicial resources. The allegations in the indictment are nearly identical to the allegations in the civil complaints. It is

likely that resolution of the criminal proceeding will be dispositive of at least some of the claims in the civil cases, both for the Moving Defendants and the other defendants. Proceeding down dual litigation paths serves to waste not only the Moving Defendants' resources, but the resources of the Court as well.

The "court . . . has the "inherent discretionary authority to stay cases" to manage its docket in the interest of justice and efficiency. *Digital Equipment Corp. v. Currie Enterprises*, 142 F.R.D. 8, 11 (D. Mass. 1991). "It is clear . . . that this power is properly exercised when the ends of justice are threatened by the concurrent development of related criminal and civil proceedings." *United States v. Hugo Key & Son, Inc.*, 672 F. Supp. 656, 657 (D.R.I. 1987). In *Hugo Key & Son*, the Court ordered a stay of civil proceedings during the pendency of a related criminal prosecution. *Id.* at 658-59. The Court noted that such a result is called for when the "interests of justice seem[] to require such action[.]" *Id.* To reach this conclusion, the Court recognized the harm that could result because of the "broad scope and liberal interpretation of the Federal Rules of Civil Procedure[.]" *Id.* at 658. *See also Mainelli v. United States*, 611 F. Supp. 606, 615 (D.R.I. 1985) (noting that the risk of prejudice to a defendant is particularly high when the civil and criminal actions are in regard to the same matter). Other courts also recognize the inherent tension created when criminal and civil matters predicated on the same alleged conduct proceed simultaneously. *See Eastwood v. United States*, No. 2:06-cv-164, 2008 U.S. Dist. LEXIS 106777, *4-*5 (E.D. Tenn. Nov. 14, 2008) ("The similarity of the issues underlying the civil and criminal actions is considered the most important threshold issue."); *Turley v. United States*, No. 02-4066-CV-C-NKL, 2002 U.S. Dist. LEXIS 16964, at *10 (W.D. Mo. Aug. 22, 2002) (quoting *White v. Mapco Gas Products, Inc.*, 116 F.R.D. 498, 502 (E.D. Ark. 1987)) (When it is likely that "the 'resolution of the related criminal matter may eliminate much of the

Court's work in the civil action' by simplifying the issues" it makes sense to grant a stay to conserve judicial resources.) *Brock v. Tolkow*, 109 F.R.D. 116, 119 (E.D.N.Y. 1985) ("A stay of civil proceedings is most likely to be granted where the civil and criminal actions involve the same subject matter[.]")

The circumstances strongly support the granting of a stay now that the United States issued an indictment against Mr. Caramadre and Mr. Radhakrishnan. They plainly face hardship if forced to defend the criminal and civil proceedings simultaneously. Defense of the civil and criminal complaints simultaneously will unfairly stretch their resources. The need to participate in the defense of the civil matters will divert their attention away from the defense of the criminal charges. A stay is particularly appropriate given the similarity of the allegations that form the basis of the proceedings.

The interests of fairness and justice, however, counsel against a stay of the Court's consideration of the pending motions to dismiss. The Court also should not stay the ability of any defendant to seek a Rule 54(b) final judgment on any dismissed claim. Some defendants, including Ms. Rodrigues and ADM, have been denied access to funds in certain investment accounts during the pendency of these civil actions. Ms. Rodrigues and ADM cannot regain access to these funds until they receive final judgment in their favor on the claims asserted against them.

This Court previously dismissed all claims against Ms. Rodrigues and ADM before allowing the amended complaints. The reassertion of these claims in the amended complaints did not change their factual basis or nature.² The pending motions to dismiss likely will result in

² The claims against Ms. Rodrigues are part of C.A. No. 09-471-S-DLM. The claims against ADM are part of C.A. No. 09-472-S-DLM.

the dismissal of these claims.³ The Court should allow Ms. Rodrigues and ADM, as well as any other defendant in favor of whom the Court dismisses the plaintiffs' claims, to obtain final resolution of the claims that have no cognizable legal basis.

This result is not only fair and just; it also promotes judicial economy. Resolution of the motions to dismiss pares down the subject matter of the civil proceedings so that the scope of the case will be resolved before it is restarted upon the resolution of the criminal matter.

IV. REASON FOR REQUEST FOR EMERGENCY CONSIDERATION

Moving Defendants seek emergency consideration of this motion because of the pending December 12, 2011 deadline for EPR to answer plaintiffs' interrogatories. As explained herein, Mr. Caramadre and Mr. Radhakrishnan face unfair prejudice if EPR answers those interrogatories. The regular briefing schedule for this motion would not permit resolution before the deadline for EPR's responses. If the Court grants the relief requested in this motion, it would stay EPR's obligation to provide answers to those interrogatories. Accordingly, Moving Defendants request that the Court rule on this motion on an emergency basis before December 12, 2011.

IV. CONCLUSION

For the reasons stated herein, the Moving Defendants respectfully request that the Court grant this renewed motion for a partial stay and order that the proceedings in the seven related civil cases are stayed until resolution of the criminal charges against Mr. Caramadre and Mr. Radhakrishnan. The Moving Defendants further request that the Court exempt its consideration of the pending motions to dismiss from the stay, as well as any motion for final judgment on any dismissed claim.

³ The Court also previously dismissed a number of other claims. Like Ms. Rodrigues and ADM, the defendants against whom Plaintiffs asserted those claims also should be permitted to obtain final resolution notwithstanding the need to stay the remainder of the matters.

Dated: Providence, Rhode Island
December 5, 2011

JOSEPH CARAMADRE, RAYMOUR
RADHAKRISHNAN, ESTELLA RODRIGUES
AND ADM ASSOCIATES, LLC,
By their Attorneys,

/s/ Adam M. Ramos
Robert G. Flanders, Jr. (# 1785)
Adam M. Ramos (#7591)
HINCKLEY, ALLEN & SNYDER LLP
50 Kennedy Plaza, Suite 1500
Providence, RI 02903
Telephone: (401) 274-2000
Facsimile: (401) 277-9600
Email: rflanders@haslaw.com
aramos@haslaw.com

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2011, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

/s/ Adam M. Ramos