

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

MATTHEW HETLAND,

Plaintiff,

v.

**TRAVIS BEAUCHESNE, an individual,
iCLICK PROMOTIONS, LLC, a Utah
limited liability company, and PLAYA
NEGRA, a Cost Rica entity of unknown
origins,**

Defendants.

RULING & ORDER

Case No. 2:15-mc-00299

**United States District Court Judge David
Nuffer**

Magistrate Judge Dustin Pead

This matter was referred to this court by District Court Judge David Nuffer pursuant to 28 U.S.C. §636(b)(1)(B) (doc. 11). Currently pending is Defendants Travis Beauchesne, iClick Promotions, LLC and Play Negra's (collectively "Defendants") "Motion to Stay" as filed on July 29, 2015 (doc. 24). The motion has been fully briefed and submitted for decision. (doc. 27).

For the reasons now set forth herein, Defendants request is denied.

I. The stay here would effectively afford injunctive relief.

First, Defendants' proposed stay would have the practical effect of preventing a sheriff's sale set for this afternoon. Defendants have not demonstrated sufficient harm to justify such a result. Thus, the Court elects not to stay operation of its prior order.

II. Defendants forfeited their argument in favor of a hearing under Utah Rule of Civil Procedure 64E.

Defendants did not cite to Utah Rule of Civil Procedure 64E in their attempt to seek a hearing before this Court. (*See* doc. 8). Defendants likewise did not raise this issue in their reply

memorandum in support of that motion. (*See* doc. 16). Instead, they raise that argument in their reply in support of their emergency motion for a stay.¹ (doc. 26.) Accordingly, Defendants have forfeited this argument by failing to raise it in their initial motion.

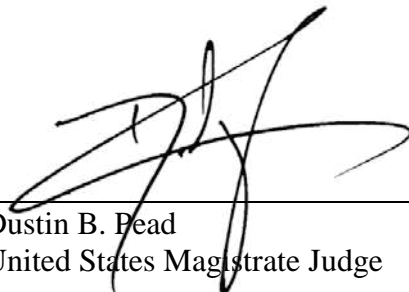
III. A stay pending a hearing would exalt form over substance.

Further, the Court addressed the merits of Defendants' arguments in its previous order and found their position to be legally untenable. (doc. 18). Practically speaking, the hearing Defendants now seek would do nothing but unnecessarily delay the sale scheduled for this afternoon. The Court did not deny Defendants' request for a hearing based upon a lack of evidence, but because their legal theory was incorrect. (*See id.*) Defendants have not explained to this Court's satisfaction that its prior analysis was in error. Thus, a stay is not warranted.

Based on the foregoing, Defendants' "Motion to Stay" is **DENIED**. (doc. 24).

IT IS SO ORDERED.

Dated this 31st day of July, 2015.



Dustin B. Pead
United States Magistrate Judge

¹ As well as their objection to the District Court. (doc. 23 at 5).