

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

COMSYS INC. AND KATHRYNE L.
MCAULIFFE,

Plaintiffs,

v.

Case No. 16-CV-655-JPS

CITY OF KENOSHA, WISCONSIN,
CITY OF KENOSHA WATER
UTILITY, FRANK PACETTI,
EDWARD ST. PETER, MERRIL A.
KERKMAN, JR., and KEITH G.
BOSMAN,

Defendants.

ORDER

On May 9, 2017, the Court granted in part and denied in part the defendants' motion for summary judgment. (Docket #114). Among other grounds for denial, the Court denied qualified immunity for defendants Frank Pacetti, Edward St. Peter, and Keith G. Bosman. *Id.* at 23-26, 31-32. The defendants filed a motion later in the day on May 9, 2017, informing the Court that they have elected to seek an appeal of the Court's denial of qualified immunity and requesting a stay of the proceedings in this Court pending that appeal. (Docket #115 at 1-2).

The defendants are entitled to take an immediate appeal of the Court's ruling on the issue of qualified immunity because "it is a final decision on the defendant[s'] right not to stand trial and, as such, a collateral order." *Gutierrez v. Kermon*, 722 F.3d 1003, 1009 (7th Cir. 2013); see *Mitchell v. Forsyth*, 472 U.S. 511, 524-530 (1985) (describing collateral orders).

The Court will grant a stay of this matter in this Court, as the defendants have requested. (Docket #115). There is no logic in proceeding to trial, currently scheduled to begin in less than a week, if the Court of Appeals ultimately finds merit in the defendants' appeal. *See Allman v. Smith*, 764 F.3d 682, 686 (7th Cir. 2014) (granting stay of proceedings as to municipality and mayor pending appeal by mayor on issue of qualified immunity). This stay will be lifted when a mandate is issued by the Court of Appeals. If a trial is still required, it will be completed within 90 days following remand.

Accordingly,

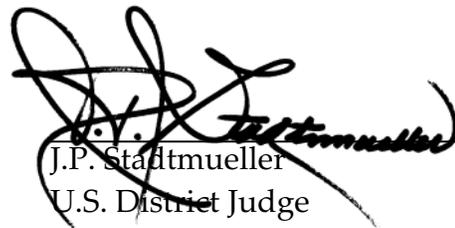
IT IS ORDERED that this matter's May 15, 2017, jury trial and all other related deadlines (Docket #36) be and the same are hereby **VACATED**;

IT IS FURTHER ORDERED that the defendants' motion to stay proceedings in the district court (Docket #115) be and the same is hereby **GRANTED**; and

IT IS FURTHER ORDERED that these proceedings be and the same are hereby **STAYED** pending resolution of an appeal taken in this case before the United States Court of Appeals for the Seventh Circuit.

Dated at Milwaukee, Wisconsin, this 10th day of May, 2017.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge