

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No.	CV 08-3315 CAS (MANx)	Date	June 17, 2010
Title	INDEPENDENT LIVING CENTER OF SOUTHERN CALIFORNIA ET AL V. SANDRA SHEWRY		

Present: The Honorable	CHRISTINA A. SNYDER		
CATHERINE JEANG	NOT PRESENT	N/A	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
NOT PRESENT	NOT PRESENT		

Proceedings: (In Chambers:)

RESPONDENT’S EX PARTE APPLICATION FOR STAY OF THE TRIAL COURT PROCEEDINGS OR, IN THE ALTERNATIVE, FOR AN ORDER SHORTENING TIME FOR HEARING RESPONDENT’S MOTION TO STAY TRIAL COURT PROCEEDINGS CURRENTLY SET FOR JULY 12, 2010 (filed 6/11/10)

I. INTRODUCTION & BACKGROUND

The facts and procedural history of this action are known to the parties and summarized in this Court’s August 18, 2008 order granting in part and denying in part petitioners’ motion for preliminary injunction, and this Court’s November 17, 2008 order granting petitioners’ motion for summary judgment.

On January 22, 2010, this Court issued an order amending this Court’s August 18, 2009 order pursuant to the mandate from the Ninth Circuit Court of Appeals. See Indep. Living Ctr. of S. Cal. v. Maxwell-Jolly, (“ILC II”), 572 F.3d 644, 662-63 (9th Cir. 2009) (affirming in part and reversing in part this Court’s August 18, 2008 order); Indep. Living Ctr. of S. Cal. v. Maxwell-Jolly, (“ILC III”), 590 F.3d 725, 730 (9th Cir. 2009) (denying respondent’s motion to vacate ILC II and ordering the mandate to reissue). Pursuant to the mandate, this Court vacated the August 27, 2008 order modifying the injunction and amended the August 18, 2008 order to change the effective date to July 1, 2008. Accordingly, this Court ordered “respondent Director, her agents, servants, employees, attorneys, successors, and all those working in concert with her to refrain from enforcing

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Cal. Welf. & Inst. Code § 14105.19(b)(1), including refraining from reducing by ten percent payments under the Medi-Cal fee-for-service program for physicians, dentists, optometrists, prescription drugs, adult day health care centers, and clinics for services provided on or after July 1, 2008."¹ See Jan. 22 and 29, 2010 orders.

On February 25, 2010, the Court denied respondent's motion to stay this Court's January 22, 2010 order pending filing and disposition of respondent's petition for certiorari to the Supreme Court. On March 17, 2010, the Court denied respondent's motion to stay further proceedings in the case pending resolution of respondent's petition for certiorari to the Supreme Court.

On June 11, 2010, respondent filed the instant ex parte application for stay of the trial court proceedings or, in the alternative, for an order shortening time for hearing respondent's motion to stay trial court proceedings currently set for July 12, 2010. On June 13, 2010, petitioners filed their opposition to the instant ex parte application. Intervenors filed an opposition on June 15, 2010.

II. LEGAL STANDARD

A district court has discretionary power to stay proceedings in its own court. See Landis v. North American Co., 299 U.S. 248, 254 (1936). Accordingly, the court "may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case." Leyva v. Certified Grocers of Cal. Ltd., 593 F.2d 857, 863 (9th Cir. 1979). However, case management concerns alone are not necessarily a sufficient ground to stay proceedings. See Dependable Highway Express v. Navigators Ins. Co., 498 F.3d 1059, 1066 (9th Cir. 2007). "[I]f there is even a fair possibility that the stay . . . will work damage to someone else,' the stay may be inappropriate absent a showing by the moving party of 'hardship or inequity.'" Id. (quoting Landis, 299 U.S. at 255). Further, "being required to defend a suit, without more, does not constitute a 'clear case of hardship or inequity' within the meaning of Landis." Lockyer v. Mirant Corp.,

¹ On January 29, 2010, the Court issued a minute order amending the January 22, 2010 order to clarify the six categories of services subject to injunction.

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398 F.3d 1098, 1112 (9th Cir. 2005).

III. DISCUSSION

Although the Court previously found that good cause did not exist to stay the instant action, recent events justify an immediate stay pending resolution of respondent’s petition for certiorari to the Supreme Court. First, on May 24, 2010, the Supreme Court invited the Solicitor General to file a brief in the instant case. In addition, the Ninth Circuit stayed the appellate proceedings in the related matter of California Hospital Assoc. v. David Maxwell-Jolly, Case. No. 09-8642 CAS, in light of the pending petitions for certiorari in this matter and California Pharmacists, Ass’n v. David Maxwell-Jolly, Case No. 09-8200.

Accordingly, the Court GRANTS respondent’s ex parte application and hereby orders the instant matter stayed. Within 45 days from the date of this order, or upon the disposition of the petition for certiorari, whichever occurs first, the parties shall file a joint status report.

Because respondent’s Motion to Stay, filed June 7, 2010, seeks the same relief granted herein, the Motion to Stay is hereby DENIED as moot. Petitioner’s and Intervenor’s Motions for Summary Judgment, filed June 7, 2010 and May 28, 2010, respectively, are taken off calendar and the hearing currently set for July 26, 2010, is hereby vacated pending further order of this Court.

IT IS SO ORDERED.

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 Initials of Preparer CMJ
