

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Vanessa Dundon, Jade Kalikolehuaokal)
Wool, Crystal Wilson, David Demo, Guy)
Dullknife, III, Mariah Marie Bruce, Frank)
Finan, Israel Hoagland-Lynn, and Noah)
Michael Treanor, on behalf of themselves)
and all similarly-situated persons,)

Plaintiffs,

VS.

Kyle Kirchmeier, Morton County, City of)
Mandan, Jason Ziegler, Stutsman County,)
Chad Kaiser, and Does 1-100,)

Defendants.

ORDER GRANTING PLAINTIFFS' MOTION TO STAY PROCEEDINGS PENDING APPEAL

Case No.: 1:16-cv-406

Before the Court is Plaintiffs’ “Motion for a Stay of Further District Court Proceedings Pending Appeal to the United States Court of Appeals for the Eighth Circuit” filed on February 17, 2017. See Docket No. 106. The Plaintiffs seek a stay of the district court proceedings pending the appeal of the district court’s denial of the Plaintiffs’ motion for a preliminary injunction. Plaintiffs assert there is no potential prejudice to the non-moving party, the Plaintiffs will suffer hardship and inequity if the proceedings are not stayed, and judicial resources will be saved by granting a stay. See Docket No. 107. The Defendants filed a response in opposition to the Plaintiffs’ motion for a stay on February 21, 2017. See Docket No. 109. The Defendants assert a stay would serve no useful purpose other than to delay the ordinary administration of justice.

A district court has broad discretion to stay proceedings when appropriate to control its docket, conserve judicial resources, and ensure the matter is handled with economy of time and effort for itself, counsel, and litigants. See Sierra Club v. U.S. Army Corps of Engineers, 446 F.3d 808, 816 (8th Cir. 2006); Barnes v. Zurn Pex, Inc., No. 1:07-cv-74, 2008 WL 111217, *2 (D.N.D.

Jan. 9, 2008). The consideration to stay proceedings involves an “exercise of judgment, which must weigh competing interests and maintain an even balance.” Barnes, 208 WL 111217 at *2. The party requesting a stay must make out a clear case of hardship or inequity in being required to go forward if there is even a fair possibility that the stay will work damage to another. Id.

The Plaintiffs assert there is no potential prejudice to the non-moving party as no discovery has occurred at this time, there is no trial date or case management date set, and the only pending matter is the Defendants’ motion to dismiss. See Docket No. 107. The Plaintiffs assert no prejudice to the Defendants will occur by staying the district court proceedings pending the appeal to the Eighth Circuit and note that granting a stay will, in fact, conserve the Defendants’ legal resources. The Court agrees. In their response, the Defendants do not assert that they will suffer prejudice by a stay. See Docket No. 109. Instead, the Defendants simply contend the appeal and the pending motion to dismiss address different issues. The Court finds that judicial economy favors granting a stay to prevent a waste of judicial resources while the interlocutory appeal is being decided and to prevent an inefficient multiplicity of appeals. In the broad exercise of its discretion, the Court **GRANTS** the Plaintiffs’ motion to stay proceedings pending appeal (Docket No. 106) and **FINDS AS MOOT** the Plaintiffs’ motion for a hearing (Docket No. 108).

IT IS SO ORDERED.

Dated this 22nd day of February, 2017.

/s/Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court