

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

CONTINENTAL COAL,

Plaintiff,

v.

Case No. 06-2122-KHV

MATT CUNNINGHAM, *et al.*,

Defendants.

**ORDER STAYING DISCOVERY**

This matter comes before the court upon defendants' motions to stay discovery (Docs. 21, 25). Defendants have filed a memorandum in support of their motions (Docs. 22, 26) and seek to have the court stay discovery in this matter pending a ruling by the trial judge, U.S. District Judge Kathryn Vratil, on their motions to dismiss (Docs. 19, 32). In its response to defendants' motions (Doc. 34), counsel for plaintiff indicated to the court that plaintiff does not oppose defendants' request to stay discovery in this matter.

The court does not ordinarily favor staying discovery pending resolution of dispositive motions because of the delay such a stay may occasion in obtaining a timely resolution of the matter. However, "it is appropriate for a court to stay discovery until a pending dispositive motion is decided. . . where the case is likely to be finally concluded as a result of the ruling thereon; where the facts sought through uncompleted discovery would not affect the resolution of the motion; or where discovery on all issues of the broad complaint would be wasteful."<sup>1</sup>

---

<sup>1</sup> *Wolf v. United States*, 157 F.R.D. 494, 494-95 (D. Kan. 1994).

At this time, defendants have filed motions to dismiss (Docs. 19, 32) on numerous grounds. Further, plaintiff consents to the motion to stay the discovery “without waiving any argument concerning the merits of defendants’ motion[s.]”

There is a potential for the ruling on the pending motions to dismiss to be completely dispositive of the case, to eliminate one or more defendants from the action, or to narrow the issues remaining for discovery. Moreover, the parties agree that facts sought by any discovery would not impact the briefing or resolution of the motion. Accordingly, by imposing a stay on discovery now, before discovery activities have truly begun, the court can prevent any waste of the parties’ resources from the conduct of discovery on any aspect of the case that does not survive the pending dispositive motion.

Therefore, the court finds that a stay of discovery will not prejudice any party, will allow the parties to have knowledge of what, if any, claims remain prior to expending resources on discovery, and is appropriate in this instance.

**IT IS THEREFORE ORDERED** that defendants’ motions to stay discovery (Docs. 21, 25) are hereby granted, and discovery in this case is hereby **STAYED** pending a ruling by the trial judge on the pending motions to dismiss (Docs. 19, 32).

**IT IS SO ORDERED.**

Dated this 1st day of August, 2006, at Topeka, Kansas.

s/ K. Gary Sebelius  
K. Gary Sebelius  
U.S. Magistrate Judge