

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

AMERICAN CONTRACTORS
INDEMNITY COMPANY,

Plaintiff,

v.

Civil Action

JOHN ATAMIAN, et al.,

No. 08-2586-JWL/GLR

Defendants.

ORDER

Pending before the Court is the Motion to Stay Pending Resolution of Defendants' Motion for Summary Judgment (doc. 67). It requests the Court to stay the case pending resolution of a pending Motion for Summary Judgment (doc. 62). It asks in the alternative that the March 10, 2010 final pretrial conference and related deadline for submission of the parties proposed pretrial order be continued.

Plaintiff has advised the Court that it does not object to a continuance of the pretrial conference, but some type of hearing is necessary to resolve the outstanding discovery issues.

The general policy in this district is not to stay discovery even though dispositive motions are pending.¹ A court, however, may appropriately stay discovery until a pending 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 and burdensome."²

¹*Wolf v. United States*, 157 F.R.D. 494, 495 (D. Kan. 1994).

²*Id.* (citing *Kutilek v. Gannon*, 132 F.R.D. 296, 297-98 (D. Kan. 1990)).

In this case the Court finds no reason to depart from the general policy to proceed, notwithstanding that a dispositive motion is pending. The Court does not conclude that the case is likely to be finally concluded upon a ruling of the Defendants' Motion for Summary Judgment. Plaintiff contends, moreover, that Defendants have not yet fully complied with their obligation to produce discovery. Finally, Defendants have not shown that allowing the case to proceed would be wasteful or burdensome. The Court therefore denies the request to stay the case pending resolution of the pending motion for summary judgment. It will grant the alternative request, however, to continue the final pretrial conference and related deadline for submission of the pretrial order.

IT IS THEREFORE ORDERED THAT the Motion to Stay Pending Resolution of Defendants' Motion for Summary Judgment (doc. 67) is granted in part and denied in part, as set forth herein. The request to stay the case is denied. The request to continue the final pretrial conference is granted. The Final Pretrial Conference is hereby continued to **May 4, 2010 at 2:15 p.m.** and will be held by telephone. The deadline for submission of the proposed pretrial order is extended to **April 27, 2010.**

Dated in Kansas City, Kansas on this 8th ay of March, 2010.

s/Gerald L. Rushfelt
Gerald L. Rushfelt
United States Magistrate Judge