

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

ELOY VELASCO BRISENO, and)
JANA HARRIS VELASCO,)
)
Plaintiffs,)
)
v.)
)
MARKETING AND MANAGEMENT)
SOLUTIONS, LLC, et al.,)
)
Defendants.)
)

Case No. 18-02482-CM-JPO

MEMORANDUM AND ORDER

This matter is before the court on plaintiffs’ response to the court’s order to show cause why four defendants should not be dismissed without prejudice for lack of timely service of process. (Doc. 26.)

I. FACTUAL BACKGROUND

Plaintiffs filed this case on September 7, 2018 against sixteen individual and corporate defendants in the United States and Mexico. At the time of filing, seven defendants were allegedly located in the United States, with the remaining nine defendants in Mexico. (Doc. 1, at 4–6.) Two of the defendants based in the United States were dismissed from this case without prejudice pursuant to the court’s order on January 31, 2019. (Doc. 20.) A third defendant allegedly based in the United States was dismissed from this case pursuant to the court’s order on June 27, 2019. (Doc. 21.)

Plaintiffs were ordered on July 1, 2019 to show cause why this case should not be dismissed for lack of service on these remaining thirteen defendants. (Doc. 22.) Plaintiffs responded on July 5, 2019 explaining their efforts to serve defendants located in Mexico, and requested a stay of proceedings during the expected delays associated with foreign service. (Doc. 23.) The court was persuaded as to

plaintiffs' efforts to serve defendants located in Mexico, but required plaintiffs to show cause as to the four defendants allegedly located in the United States. (Doc. 25.) Plaintiffs now detail their efforts to serve the remaining four defendants, and ask the court for a two-month stay of proceedings to allow plaintiffs sufficient time to complete service. (Doc. 26.)

II. LEGAL STANDARDS

“It is well settled that the district court has the power to stay proceedings pending before it and to control its docket for the purpose of ‘economy of time and effort for itself, for counsel, and for litigants.’” *Pet Milk Co. v. Ritter*, 323 F.2d 586, 588 (10th Cir. 1963) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). The granting of a stay is generally within the court’s discretion. *See Baca v. Berry*, 806 F.3d 1262, 1269 (10th Cir. 2015).

III. DISCUSSION

Defendants James Allen Buckley (“Buckley”), Banorte USA Corporation (“Banorte USA”), Banorte, and BBVA Bancomer, S.A. (“BBVA”) are allegedly located in the United States. Plaintiffs’ response to the court’s order states that plaintiffs “are currently under the impression and belief that [d]efendant Buckley may not exist and may simply be a manifestation of the named defendants as part of their [alleged fraud,]” and that plaintiffs are currently unable to locate a valid address for defendant Buckley. (*Id.* at 1–2.) However, plaintiffs are continuing to search for a valid address for defendant Buckley. (*Id.* at 2.) For the remaining three corporate defendants, plaintiffs provide multiple addresses where they believe the remaining three corporate defendants may be served. (*Id.* at 2–4.) Plaintiffs requested alias summons for defendants at those addresses on August 1, 2019, and the court issued those summons. (*Id.*)

The court is persuaded that plaintiffs are attempting to properly serve defendants and timely prosecute their case, and that the delays in service necessarily resulted from the obfuscation of

defendants' identities inherent in the alleged fraud. The court is further persuaded that a stay of proceedings in this case serves the interests of economy of time and effort for the court, for counsel, and for the litigants.

Accordingly, plaintiffs have shown cause why defendants should not be dismissed, and why proceedings should be stayed. The court grants plaintiffs' request for a two-month stay of proceedings.

IT IS THEREFORE ORDERED that all proceedings in the above-captioned matter are stayed until October 10, 2019.

Dated this 12th day of August, 2019, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge