

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 08-5301 JVS (SHx) Date September 9, 2009
 CV 08-6919 JVS (SHx)
EDCV 08-840 JVS (SHx)
 SACV 09-93 JVS(SHx)

Title Dowlatsahi v. Mukasey
 Torossian v. Douglas
De Osorio v. Scharfen
 Zhang v. Chertoff

Present: The James V. Selna
 Honorable

Karla J. Tunis
 Deputy Clerk

Not Present
 Court Reporter

Attorneys Present for Plaintiffs:
 Not Present

Attorneys Present for Defendants:
 Not Present

Proceedings: (In Chambers) Order Denying Defendants’ Motion to Stay

Defendants in the above-referenced cases move the Court for an order staying these proceedings pending resolution of Costelo, et al. v. Napolitano, et al., SACV 08-688 JVS (SHx), a related class action. Not all plaintiffs in these cases have opposed, but the Court nonetheless DENIES these motions.

Although “the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants,” moderation counsels that “[o]nly in rare circumstances will a litigant in one cause be compelled to stand aside while a litigant in another settles the rule of law that will define the rights of both.” Landis v. N. Am. Co., 299 U.S. 248, 255 (1936). The interests that the Court must weigh in deciding whether to grant a stay include: (1) prejudice to the nonmoving party, (2) hardship to the moving party, and (3) judicial economy. CMAX, Inc. v. Hall, 300 F.2d 265, 268 (9th Cir. 1962) (citing Landis, 299 U.S. at 254-55). Defendants bear the burden of proving that a stay is warranted. Clinton v. Jones, 520 U.S. 681, 708 (1997) (citing Landis, 299 U.S. at 255).

Defendants have not done so here. First, a resolution of Costelo would not

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necessarily resolve these cases insofar as at least some plaintiffs are not members of the class in Costelo. (See SACV 08-6919, Docket No. 40, Opp'n Br. 4; SACV 08-840, Docket No. 54, Opp'n Br. 4.) Even if these plaintiffs' standing is in question,¹ there is at least "a fair possibility that the stay . . . will work damage to [them]." Landis, 299 U.S. at 255. Notably, there is no motion for summary judgment currently pending in Costelo, and the possibility of prejudice weighs against a stay. Second, any hardship to the defendants appears to be minimal. Without a stay, defendants contend that they would be forced "to make duplicative efforts in filings, appearances, and the like." (Zhang Mot. 8; Torossian Mot. 9; Dowlatshahi Mot. 6; de Osorio Mot. 6.) To the extent these cases are parallel-tracked and the Court is set to hear cross-motions for summary judgment in them on September 28, 2009, the burden of duplicative appearances is attenuated for the foreseeable future.² As is the burden of duplicative filings, an issue which is largely moot now that the defendants have filed motions for summary judgment in each of these cases. (SACV 09-93, Docket No. 58; SACV 08-6919, Docket No. 40; SACV 08-5301, Docket No. 42; SACV 08-840, Docket No. 54.) Against this backdrop, the Court is not persuaded that a stay of these cases would serve the interests of judicial economy. To the contrary, judicial economy may well be served by proceeding with the cross-motions for summary judgment in these cases.

Accordingly, the defendants' motions are DENIED. The Court finds that oral argument would not be helpful on these matters, and vacates the September 14, 2009 hearing. Fed. R. Civ. P. 78; L.R. 7-15.

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¹ While standing is a threshold matter, these motions can be resolved without reaching the issue of standing. The Court declines to reach this issue without more extensive briefing.

² Moreover, the Court would have no objection to defendants' filing a consolidated brief bearing the caption of all four cases.

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