

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

Civil Action No.
78-322 & 78-420

(Consolidated)

DEFENDANT'S MOTION AND MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF A STAY OF PLAINTIFF'S DISCOVERY

On April 25 and May 4, 1983, respectively, plaintiff served defendant by mail with a Second Request for Production of Documents and a Second Set of Interrogatories. Defendant's response to the document request is thus due on or before May 31, 1983, whereas its answers to the interrogatories are due on or before June 6, 1983.

On May 18, 1983, defendant filed a motion for dismissal under Rule 37(b)(2)(C) of the Federal Rules of Civil Procedure. That motion is premised on plaintiff's willful refusal to comply with the Court's discovery orders of February 4 and April 13, 1983, directing Mr. Weisberg to file and serve responsive answers to the contention interrogatories and request for production documents which defendant had propounded to him on December 6, 1982.

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Given the pendency of that motion by the defendant as well as plaintiff's willful disregard of the above-mentioned discovery orders, the defendant hereby requests the Court to stay plaintiff's second set of discovery pending resolution of its dismissal motion. Support for such a request is found not only in the provision of Rule 37(b)(2), F.R.Civ.P., which permits a court to enter an order "staying further proceedings," but also in the numerous judicial decisions contruing Rule 26(c), F.R.Civ.P., as authorizing the exercise of broad discretion by trial courts over the discovery process including the staying of discovery pending the resolution of a dispositive motion. E.g., Brennan v. Local 639, 494 F.2d 1092, 1100 (D.C. Cir. 1974); SCM Corp. v. Brother International Corp., 316 F. Supp. 1328, 1335-36 (S.D. N.Y. 1979); Klein v. Lionel Corp., 18 F.R.D. 184 (D. Del. 1944).

Respectfully submitted,

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ORDER

Upon consideration of defendant's motion for a stay of plaintiff's discovery, plaintiff's opposition thereto, and the entire record herein, the Court finds that the motion should be granted. It is therefore,

ORDERED and ADJUDGED that defendant's motion for a stay of plaintiff's discovery be, and the same is hereby, GRANTED.

It is further ORDERED that discovery by plaintiff is hereby stayed pending the Court's resolution of defendant's motion for dismissal under Rule 37(b)(2)(C), F.R.Civ.P.

It is so ordered this ____ day of _____, 1983.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 1983, I have served the foregoing Defendant's Motion and Memorandum of Points and Authorities in Support of a Stay of Plaintiff's Discovery, and a proposed Order, by first class mail to:

James H. Lesar, Esq.
Suite 900
1000 Wilson Boulevard
Arlington, Virginia 22209


HENRY J. LAHAIE