

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES SECURITIES AND	)	
EXCHANGE COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	NO. 1:15-cv-659-JMS-MJD
	)	
VEROS PARTNERS, INC.,	)	
MATTHEW D. HAAB,	)	
JEFFERY B. RISINGER,	)	
VEROS FARM LOAN HOLDING LLC	)	
TOBIN J. SENEFELD,	)	
FARMGROWCAP LLC, and	)	
PINCAP LLC,	)	
	)	
Defendants.	)	
	)	
PIN FINANCIAL LLC,	)	
	)	
Relief Defendant.	)	

**DEFENDANT TOBIN J. SENEFELD’S MOTION TO STAY CASE MANAGEMENT  
PLAN DEADLINES**

Defendant Tobin J. Senefeld (“Senefeld”) respectfully requests that the Court stay the remaining case management plan deadlines pending a ruling on his Motion for Summary Judgment, which could resolve this matter in its entirety without further litigation expense by either party, and in support hereof states as follows:

1. The parties’ case management plan was entered by Order of this Court on June 23, 2015 [Doc. 67].
2. The current case management plan contemplates Senefeld making any expert disclosure by May 15, 2016.<sup>1</sup> Objections to expert testimony currently are due by August 5,

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<sup>1</sup> May 15, 2016 is a Sunday.

2016. Final Witness and Exhibit Lists are currently due June 3, 2016. Expert witness discovery and discovery relating to damages is scheduled to be completed by July 22, 2016.

3. These deadlines have not been extended at any point in this litigation and have not yet expired.

4. No trial date has been set, and the final pretrial conference has not been set.

5. The Court, in its discretion, and for good cause, may stay the remaining case management plan deadlines pending a ruling on Senefeld's Motion for Summary Judgment, which was fully briefed and became ripe for adjudication yesterday, and could resolve this matter in its entirety without either the SEC or Senefeld incurring additional, potentially unnecessary litigation expense. "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. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Novelty, Inc. v. McClane Co.*, 2010 U.S. Dist. LEXIS 30783, at \* 9 (S.D. Ind. Mar. 30, 2010) (Barker, J.) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936)). Where, as here, a potential court order may "render[] superfluous any further work" on claims, a stay may be granted. *Id.* (granting stay where, if party prevailed on request for sanctions, it could receive a default judgment that would render claims moot). *See also Columbus Regional Hosp. v. Federal Emergency Mgmt. Admin.*, 2012 U.S. Dist. LEXIS 42564, at \* 6 (Barker, J.) (affirming Magistrate Judge's order staying entry of case management deadlines pending ruling on dispositive motion where discovery was not needed to respond to dispositive motion). *See also e.g., Finch v. Indianapolis*, 2011 U.S. Dist. LEXIS 67577, at \* 15 (S.D. Ind. June 23, 2011) (Lynch, M.J.) (staying potentially unnecessary discovery "until after dispositive motions are

adjudicated”). Here, Senefeld’s Motion for Summary Judgment could resolve all of the claims in this litigation. Accordingly, a stay of the remaining case management deadlines pending resolution of the dispositive motion would limit additional litigation expense by either the SEC or Senefeld.

6. Even if Senefeld’s Motion for Summary Judgment is partially successful, it could limit the scope of any continued litigation and allow a more directed and specific scope of what, if any, expert opinion and discovery relating to damages may be necessary. And if the motion fails in its entirety, the parties will be in the same position as they stand today to litigate this matter to a complete resolution.

7. As a point of reference, counsel for Senefeld has contacted Scott Solomon and Jordan Kraner of Charles River & Associates, whom counsel has retained for expert forensic accounting work in the past, concerning serving as potential experts in this matter if needed. Scott Solomon’s hourly rate is \$635 and Jordan Kraner’s hourly rate is \$560. Substantial expense may be incurred in using their services and would be avoided entirely if Senefeld prevails on his motion.

8. The SEC has represented that it will oppose this motion.<sup>2</sup> As undersigned counsel understands, the SEC intends to object on the grounds that this request could have been made earlier. However, Senefeld’s Motion for Summary Judgment was not fully briefed until yesterday and a request for a stay would have been premature. *United States ex rel. States ex rel. Robinson v. Ind. Univ. Health, Inc.*, 2015 U.S. Dist. LEXIS 84642, \* 21 (S.D. Ind. June 30,

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<sup>2</sup> Counsel for Senefeld and counsel for the SEC initially discussed a motion to enlarge case management plan deadlines, to which the SEC objected. Upon further reflection, the relief Senefeld seeks is better served through a request to stay, rather than enlarge, the case management plan deadlines, to allow sufficient time for the Court to rule on Senefeld’s Motion for Summary Judgment. The SEC’s objections to an enlargement of time of case management plan deadlines necessarily also would apply to a stay of the deadlines.

2015) (Dinsmore, M.J.) (denying stay where dispositive motion was not fully briefed and stay in discovery would be prejudicial, in contrast to stay granted where “the dispositive motion . . . had been fully briefed at the time the court imposed the stay.”). Moreover, the case management deadlines have not yet expired and have never previously been stayed or even enlarged.

9. Undersigned counsel understands the SEC also objects on the grounds that this request would delay final resolution of this matter. But no trial dates have been set and there have been no prior delays or requests for enlargement of deadlines. *See Duneland Dialysis LLC v. Anthem Ins. Cos.*, 2010 U.S. Dist. LEXIS 33599, at \* 8 (N.D. Ind. Apr. 9, 2010) (Cherry, J.) (party’s claim of prejudice from a stay “is unavailing . . . given that no trial date has been set in this matter.”). Moreover, this matter could be resolved in its entirety through the pending dispositive motion without further expense to the SEC or Senefeld.

10. Senefeld is entitled to vigorously defend against the SEC’s charges in this matter, but he is an individual with necessarily limited resources. After fact discovery closed, Senefeld’s resources were directed at defending against the SEC’s liability charges in his dispositive motion. Requiring him to now incur additional litigation expenses that may ultimately be unnecessary would be extremely prejudicial and burdensome, and should be considered by the Court as it “weigh[s] competing interests and maintain[s] an even balance” among the litigants. *Novelty, Inc.*, 2010 U.S. Dist. LEXIS 30783, at \* 9 (quotation and citation omitted). Any prejudice that may be alleged by the SEC in a delay in preparing for a trial date that has not been set should be, by contrast, “unavailing[.]” *Duneland Dialysis LLC*, 2010 U.S. Dist. LEXIS 33599, at \* 8.

11. The SEC has represented that it will file a Response in Opposition to this Motion.

WHEREFORE, Defendant Tobin J. Senefeld requests stay of the remaining case management plan deadlines pending a ruling on his Motion for Summary Judgment.

Respectfully submitted,

/s/ Jeanine Kerridge

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*Attorney for Defendant Tobin J. Senefeld*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 13th day of May, 2016, a copy of the foregoing was filed electronically using the CM/ECF system and is available to all counsel of record using same.

/s/ Jeanine Kerridge