

IN THE CIRCUIT COURT
FIRST JUDICIAL CIRCUIT
JACKSON COUNTY, ILLINOIS

LOVELY VARUGHESE, Administrator)
of the Estate of PRAVIN M.)
VARUGHESE)
)
Plaintiff,)
v.)
)
GAEGE BETHUNE, THE CITY OF)
CARBONDALE, and JODY)
O'GUINN, CHIEF OF POLICE,)
)
Defendants.)

Case No. 14-L-85

Christy R. Smith
CIRCUIT CLERK
JACKSON COUNTY, IL

15 AUG 14 AM 9:37

FILED 23

ORDER

Before the Court is plaintiffs "Amended Motion" to stay and alternative Motion to Voluntarily Dismiss Counts of her Amended Complaint against all defendants except Gaege Bethune without prejudice.

Plaintiff's Motion to Stay will be denied. Plaintiff has no absolute right to a stay pending further discovery where the Amended Complaint fails to state a cause of action recognized under Illinois law as is asserted to be the case here. (See *Tedrick v. Community Resource Center, Inc.*, 235 Ill.2d 155, 336 Ill.Dec. 210, 920 N.E.2d 220 (2009).)

Plaintiff, however, does have an absolute right to dismiss the suit or certain counts of the suit without prejudice under section 2-1009(a) of the Code of Civil Procedure (235 ILCS 5/2-1009(a).) See *Smith v. Bartley*, 364 Ill.App.3d 725, 301

Ill.Dec. 632, 847 N.E.2d 642 (5th Dist. 2006).) If plaintiff tenders or pays defendants' costs, the Court has no choice but to grant the requested voluntary dismissal.

It is therefore ordered that plaintiff's Motion for Stay is denied. Plaintiff's alternative Motion for Voluntary Dismissal under section 2-1009(a) is allowed. Counts II through VII of plaintiff's Amended Complaint are thus voluntarily dismissed without prejudice on condition plaintiff tender or pay the dismissed defendants' costs as provided by section 2-1009(a).

IT IS SO ORDERED.

Dated: August 13, 2015

J. Charles Grace
Judge

RECORD SHEET

Case No. 14-L-85

DATE			JUDGE AND REPORTER		COSTS	
					Dollars	Cents
8	13	15	WFO	Before the Court are 2-619 (3) (4) motions to Dismiss City and Chief O'Heinon, a 2-615 motion as to each, all filed by Mr. Cook, motion to Stay Discovery filed by D Bethune by Mr. Schumacher, as well as P's motion to Stay motion to Dismiss filed originally by Mr. Stegmayer, but adopted by subsequent counsel Mr. Cates and Mr. Messing. Defendant Dr. Tom Kuefferer's 2-615 and 2-619 motions to Dismiss, P's "Amended Motion" to Stay, or in alternative, voluntarily dismiss ^{all} D's except Bage Bethune. Court denies motion for Stay of Discovery, and of motions to Dismiss filed by Defendants. Therefore, P's Amended Motion to stay as to motion for Voluntary Dismissing is granted. Order entered. Previous P's counsel's motion to Disqualify Defendants City and O'Heinon counsel is withdrawn by substituted P's counsel. Copy of docket entry to all attorneys of record.		