

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FINGAL JOHNSON, *et al.*,

Plaintiffs,

v.

Case No. 2:00-CV-75

BILL MARTIN, *et al.*,

Defendants.

HON. RICHARD ALAN ENSLEN

_____/

MICHAEL JENKINS, *et al.*,

Plaintiffs,

Case No. 1:01-CV-515

v.

BILL MARTIN, *et al.*,

Defendants.

HON. RICHARD ALAN ENSLEN

_____/

ORDER

Plaintiffs have brought these consolidated suits under 42 U.S.C. § 1983 and under 42 U.S.C. § 2000cc, the Religious Land Use and Institutionalized Persons Act (“RLUIPA”). On November 7, 2003, the Sixth Circuit Court of Appeals held the RLUIPA unconstitutional in the case *Cutter v. Wilkinson*, 349 F.3d 257 (6th Cir. 2003). On April 19, 2004, a petition for *certiorari* in that case was filed with the United States Supreme Court. On October 12, 2004, the United States Supreme Court granted the petition for *certiorari*.

Currently, two motions are pending before the Court, Plaintiffs’ Motion for Partial Summary Judgment (Dkt. No. 251) and Defendants’ Motion to Dismiss or, in the Alternative, for Summary Judgment (Dkt. No. 253). The Court may decide both motions in their entirety at this time, in which

case all claims brought under RLUIPA must be dismissed. Alternatively, the Court may stay these proceedings until the Supreme Court has taken further action in *Cutter*. Both parties have filed briefs requesting that this case be stayed pending the decision of the Supreme Court in *Cutter*. This Court finds that it is proper to stay these proceedings in the interest of avoiding repetitive proceedings, motions, and waste of parties and this Court's resources. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (“[T]he 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.”); *see also Will v. Calvert Fire Ins. Co.*, 299 U.S. 248, 254-55 (1936); *Ohio Env'tl. Council v. United States Dist. Ct. S.D. Ohio*, 565 F.2d 393, 396 (6th Cir. 1977). Therefore, a stay will issue pending further guidance from the United States Supreme Court as to the continued validity of RLUIPA and, specifically, its decision in *Cutter*.

THEREFORE, IT IS HEREBY ORDERED that further proceedings in this matter are **STAYED** pending decision of the United States Supreme Court in *Cutter v. Wilkinson*, Case No. 03-9877 (*certiorari* granted Oct. 12, 2004).

IT IS FURTHER ORDERED that parties shall file supplemental briefs regarding the stayed motions with this Court 30 days from the date of the United States Supreme Court opinion in *Cutter v. Wilkinson*, Case No. 03-9877 (*certiorari* granted Oct. 12, 2004).

Dated in Kalamazoo, MI:
January 3, 2005

/s/Richard Alan Enslin
Richard Alan Enslin
United States District Judge