

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

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| MICHAEL E. MANN, PH.D., |) | |
| |) | |
| Plaintiff, |) | |
| |) | Case No. 2012 CA 008263 B |
| v. |) | |
| |) | Judge Frederick H. Weisberg |
| NATIONAL REVIEW, INC., <i>et. al.</i> , |) | |
| |) | |
| Defendants. |) | |
| |) | |

**ORDER DENYING DEFENDANT MARK STEYN’S RENEWED REQUEST FOR
EXPEDITED HEARING AND TO LIFT STAY OF DISCOVERY**

This matter is before the court on Defendant Mark Steyn’s Renewed Request For Expedited Hearing And To Lift Stay Of Discovery and the responses of Plaintiff and the other three Defendants. Only one thing has changed since the court last considered this issue on April 11, 2014 – the date. The interlocutory appeal by three of the four Defendants is still pending in the Court of Appeals. The stay of discovery between Plaintiff and those three Defendants necessarily remains in place. Until the Court of Appeals decides the case, it is still not known whether the Plaintiff even has a viable case; and if he does not, his case against Defendant Steyn would presumably also be doomed, even though Steyn has elected not to join the appeal. In the meantime, Steyn’s discovery against Plaintiff is automatically stayed by Plaintiff’s pending anti-SLAPP special motion to dismiss Steyn’s counterclaim; and even if the court were to rule on that motion, Plaintiff only agrees to proceed with discovery against Steyn if he can also take what he calls “third party discovery” against the other three Defendants.¹ All of these factors caused the

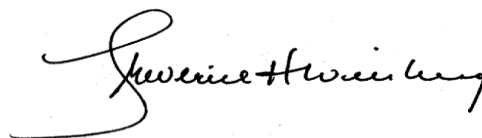
¹ To complicate matters further, under the present state of the law, if the court were to deny Plaintiff’s special motion to dismiss, nothing would prevent Plaintiff from taking his own interlocutory appeal of that ruling.

court to stay all discovery in its order of April 11, 2014, and, despite the delay, they continue to counsel against proceeding with piecemeal discovery today.²

Neither Plaintiff nor the other Defendants oppose Defendant Steyn's motion for a prompt hearing on Plaintiff's anti-SLAPP motion to dismiss Steyn's counterclaim. In the usual case, the District's Anti-SLAPP Act requires an expedited hearing and a prompt ruling on a special motion to dismiss, which is intended to minimize the chilling effect of litigation on speech in furtherance of the right of advocacy. D.C. Code § 16-5502(d). Here, however, Plaintiff's motion is addressed to Steyn's counterclaim, and even a favorable ruling on that motion will not save the Plaintiff from the burdens and expense of being tied up in court for acts in furtherance of his right of advocacy. Moreover, the Court of Appeals decision will likely provide additional guidance on how trial courts should assess anti-SLAPP special motions to dismiss – particularly with respect to the meaning of the statutory “likely-to-succeed” standard. Under these circumstances, the court prefers to await that guidance before ruling on Plaintiff's motion.

Accordingly, it is this 9th day of June, 2016,

ORDERED that Defendant Mark Steyn's Renewed Request For Expedited Hearing And To Lift Stay Of Discovery be, and it hereby is, denied.



Judge Frederick H. Weisberg

Copies to all counsel listed in CaseFile Xpress

² All Defendants other than Steyn have opposed Steyn's motion to lift the stay on discovery. For the reasons stated here and in the court's April 11, 2014, order, the court continues to believe that the piecemeal discovery that would result from the granting of Steyn's motion to lift the discovery stay as to “his” case would be inefficient and wasteful of the parties' and the court's resources, particularly where Plaintiff's claims against Steyn are inextricably intertwined with his claims against the other three Defendants.