

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

ISAAC A., et al.,

Plaintiffs,

v.

RUSSEL CARLSON, et al.,

Defendants.

Civil Action No. 1:24-cv-00037-AT

**DEFENDANTS' MOTION TO STAY DISCOVERY PROCEEDINGS UNTIL  
AFTER THE FILING OF AN ANSWER**

Defendants' move to stay discovery proceedings and pretrial deadlines, *see* LR 16.1, 16.2, 26.1, 26.2, until after the filing of an Answer to any complaint filed in this case. Plaintiffs oppose this motion.

Dated: March 8, 2024

Respectfully submitted,

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**DEFENDANTS' MEMORANDUM IN SUPPORT OF THE MOTION TO  
STAY DISCOVERY PROCEEDINGS UNTIL AFTER THE FILING OF AN  
ANSWER**

Defendants move to stay discovery proceedings “until after the filing of an answer.” *See Georgia v. Elite Integrated Med., LLC*, 2021 WL 10256533, at \*1-2 (N.D. Ga.) (Totenberg, J.). Defendants’ dispositive “motion to dismiss ... should ... be resolved before discovery begins.” *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367 (11th Cir. 1997). Local rules already say that the “discovery period” begins “thirty days after” the filing of the “answer [.]” LR 26.2(A). Defendants request that other discovery deadlines—for the Rule 26(f) conference, discovery plan, and initial disclosures—be aligned with the discovery period. *See* LR 16.1, 16.2, 26.1. Doing so would allow this Court to resolve whether Defendants have sovereign immunity before that immunity could be compromised. *See Howe v. City of Enter.*, 861 F.3d 1300, 1302 (11th Cir. 2017) (“immunity is a right not to be subjected to litigation beyond the point at which immunity is asserted”). And it “may indeed

obviate the need for certain discovery or remove the case from federal court altogether.” *Georgia*, 2021 WL 10256533, at \*1. This Court should grant the motion. *See id.* at \*1-2. Plaintiffs oppose this motion.<sup>1</sup>

### ARGUMENT

This Court should grant a stay until after the filing of an Answer. Dispositive motions to dismiss “should ... be resolved before discovery begins.” *Chudasama*, 123 F.3d at 1367. When a defendant files that kind of motion, “neither the parties nor the court have *any* need for discovery before the court rules.” *Id.* (emphasis added). For that reason, “courts often find that a stay of discovery and other pre-trial deadlines is warranted during the pendency of a dispositive motion that challenges the sufficiency of the complaint.” *Reaves v. Wilson*, 2023 WL 9851019, at \*1-2 (N.D. Ga.) (granting “a stay of the deadlines” in LR 16.1, 16.2, and 26.1(A) until after resolution of motion to dismiss). And “requiring the parties to confer and discuss settlement before the court rule[s] on the defendants’ motion to dismiss on immunity grounds is inconsistent with” Eleventh Circuit precedent. *Howe*, 861 F.3d at 1302. This Court need not take any “position regarding the merits of Defendant[s’] motion to dismiss” before it grants the requisite stay. *Sherwood v. Horizon Actuarial Servs., LLC*, 2022 WL 18460459, at \*2 (N.D. Ga.).

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<sup>1</sup> Defendants request a ruling before the deadlines outlined in this motion. Defendants have separately filed a motion to extend the time for the in-person conference pursuant to LR 16.1 to April 1, 2024; plaintiffs have consented to that relief. Granting this motion would obviate the need for the conference.

Defendants moved to dismiss all of Plaintiffs' class-action complaint on March 4, 2024. Doc. 32. The motion is case dispositive: it argues that this Court lacks subject-matter jurisdiction and that Plaintiffs failed to state a claim. Doc. 32-1 at 10-50. It also raises immunity defenses that are supposed to protect Defendants from the "burdens of litigation." See *Bouchard Transp. Co. v. Fla. Dept. of Envir. Prot.*, 91 F.3d 1445, 1448 (11th Cir. 1996); Doc. 32-1 at 10-19. Yet, absent a stay, local rules require the parties hold the Rule 26(f) conference "within sixteen days after" Defendants' motion to dismiss. LR 16.1. And they require the parties to complete and file "the Joint Preliminary Report and Discovery Plan" and initial disclosures within 30 days after Defendants' motion. LR 16.2; LR 26.1.

This Court should stay those pretrial deadlines. It routinely does so until it resolves dispositive motions. *E.g.*, *Georgia*, 2021 WL 10256533, at \*2; *Danso v. Krauss Maffei Corp.*, 2019 WL 5586574, at \*1 (N.D. Ga.) (Totenberg, J.) ("global stay of discovery [was] warranted" because stay would "avoid unnecessary expenditures of time and resources").<sup>2</sup> With good reason. "Resolution of the motion to dismiss

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<sup>2</sup> See also *Bailey v. Fair & Walker Unit Owners Ass'n, Inc.*, 2022 WL 18781001, at \*1 (N.D. Ga.) (staying all "Local Rules ... discovery and deadlines" for government defendants "until the Court rules on the ... motion to dismiss"); *Karmagreen, LLC v. United Wholesale & Distributor Inc.*, 2023 WL 9915378, at \*1 (N.D. Ga.) (staying "all pre-discovery deadlines and the start of discovery ... pending the Court's resolution of [defendant's] motion to dismiss"); *Ground/Water Treatment & Tech., LLC v. Ga. Power Co.*, 2020 WL 9550001, at \*1-2 (N.D. Ga.) (same); *Claiborne v. JPMorgan Chase Bank*, 2019 WL 11340064, at \*1 (N.D. Ga.) (same); *Kavianpour v. Bd. of Regents of Univ. Sys. of Ga.*, 2023 WL 6194290, at \*2 (N.D. Ga.) (same).

may dispose of the claims against certain defendants, and compliance with the applicable deadlines would be potentially premature and result in unnecessary expenditure of the parties' time and resources." *O'Neill v. NYU Langone Med. Ctr.*, 2022 WL 18779524, at \*1-2 (N.D. Ga.).

A stay is particularly appropriate in a case like this. Discovery should start *after* resolution of a motion to dismiss for failure to state a claim. *Chudasama*, 123 F.3d at 1368. The same is true where, as here, the motion "also challenges the Court's jurisdiction[,] raising the specter that this case will not proceed past the pleadings stage at all." *Sherwood*, 2022 WL 18460459, at \*2. "[T]he rule the Eleventh Circuit announced in *Chudasama*" is "particularly appropriate in large putative class action cases" like this one. *See id.* And "where, as here, the Eleventh Amendment question presented is a purely legal one, the district court abuses its discretion by reserving a ruling on immunity and ordering the parties to mediate." *Bouchard Transp.*, 91 F.3d at 1448; *Howe*, 861 F.3d at 1302-03 (court must decide "immunity issues before requiring that the parties litigate [plaintiff's] claims any further" and cannot order "the parties to confer and discuss settlement" before ruling). "[C]ommencing with local and federal rule disclosure requirements, proceedings, and discovery would be premature at this juncture." *Georgia*, 2021 WL 10256533, at \*1. Accordingly, this Court should move all deadlines so they apply "after the filing of an answer," just like it has done before. *Id.* at \*2.

## CONCLUSION

For the above reasons, this Court should grant the stay of pre-trial deadlines until after the filing of an Answer.

Dated: March 8, 2024

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