

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

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)	
PASTORS PROTECTING YOUTH, <i>et al.</i>)	
)	
Plaintiffs,)	Case No. 16-cv-08034
)	
v.)	Honorable Judge Ronald A. Guzman
)	
LISA MADIGAN, Illinois Attorney General, in her Official Capacity,)	
)	
Defendant.)	

**DEFENDANT’S UNOPPOSED MOTION TO STAY DISCOVERY PENDING
RESOLUTION OF DEFENDANT’S RULE 12(b)(1) AND 12(b)(6) MOTION TO DISMISS**

Pursuant to Federal Rule of Civil Procedure 26(c)(1)(A), Defendant Lisa Madigan, in her official capacity as Illinois Attorney General, moves this Court for a protective order staying all discovery, including Rule 26 disclosures, until the Court rules on The Illinois Attorney General’s Rule 12(b)(1) and 12(b)(6) Motion to Dismiss the complaint.

“District courts enjoy extremely broad discretion in controlling discovery.” *DSM Desotech Inc. v. 3D Sys. Corp.*, No. 08 CV 1531, 2008 WL 4812440, at *1 (N.D. Ill. Oct. 28, 2008). An order staying discovery is appropriate if: (1) a motion to dismiss will resolve the case in its entirety, or (2) one of the parties raises a potentially dispositive threshold issue such as a challenge to the plaintiff’s standing. *See Builders Ass’n of Greater Chicago v. City of Chicago*, 170 F.R.D. 435, 437 (N.D. Ill. 1996); *Tamburo v. Dworkin*, No. 04 C 3317, 2010 WL 4867346, at *1 (N.D. Ill. Nov. 17, 2010); *United States Catholic Conference v. Abortion Rights Mobilization, Inc.*, 487 U.S. 72, 79–80 (1988) (“It is a recognized and appropriate procedure for a court to limit discovery

proceedings at the outset to a determination of jurisdictional matters”); *Landstrom v. Illinois Dep't of Children & Family Services*, 892 F.2d 670, 674 (7th Cir.1990) (district court did not abuse its discretion by staying discovery pending resolution of qualified immunity claims).

In this case, five Illinois pastors and two unincorporated associations of Illinois pastors and churches filed suit against Lisa Madigan, in her official capacity as Illinois Attorney General, challenging the Youth Mental Health Protection Act (“the Act”) which prohibits a “mental health provider” from engaging “in sexual orientation change efforts” with a minor and bans deceptive advertising of such efforts by persons engaged “in trade or commerce.” 405 ILCS 48/20 and 25. Plaintiffs - who are not mental health providers nor engaged in trade or commerce - seek a declaration that the Act does not apply to their conduct (pastoral counseling without charge), or, in the alternative, that the Act is unconstitutional as applied.

Defendant Lisa Madigan has filed a Motion to Dismiss, asking that the entire case be dismissed for lack of subject matter jurisdiction because (1) Plaintiffs have failed to allege an actual controversy between adverse parties, specifically averring that the Act does not apply to their conduct; (2) there is no dispute ripe for judicial determination because Plaintiffs have failed to allege that the Attorney General has enforced or threatened to enforce the Act against them and have failed to allege any change in their conduct; and (3) Plaintiffs allege no imminent injury resulting from an action of the Attorney General, and thereby lack standing to pursue their claims, both on their own behalf and upon the behalf of their counselees. Defendant’s Motion to Dismiss also urges dismissal on grounds of Eleventh Amendment immunity and on the grounds that Plaintiffs fail to state a cognizable cause of action pursuant to Federal Rule of Civil Procedure 12(b)(6).

If the Court grants Defendant's Motion to Dismiss, which moves the Court to decide on the threshold issues of jurisdiction and standing, it will dispose of Plaintiffs' claims in their entirety and obviate any need for discovery in this case. Further, discovery is not needed to resolve any issues in Defendants' Motion to Dismiss. As indicated in the Joint Initial Status Report filed on September 23, 2016, given the Motion to Dismiss and the Plaintiffs' assertion that they are exempt under the Act, both parties agree and jointly proposed that disclosures and discovery, if necessary, be postponed pending the outcome of the Motion to Dismiss.

Accordingly, this Court should grant Defendant's motion and enter a protective order staying all discovery, including Rule 26 disclosures, until the Court rules on Defendant's Motion to Dismiss the complaint.

Date: October 27, 2016

Respectfully submitted,

LISA MADIGAN
Attorney General of the State of Illinois

By: /s/ Krenice Roseman
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CERTIFICATE OF SERVICE

I, Krenice M. Roseman, an attorney, hereby certify that on this 27th day of October, 2016 before 5:00 p.m., I caused copies of the foregoing documents to be served on those who have appeared and are of record via the Court's electronic filing system.

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