

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,

Plaintiff,

v.

Case No. 4:15-cv-54

GLOUCESTER COUNTY SCHOOL
BOARD,

Defendant.

BRIEF IN SUPPORT OF GLOUCESTER COUNTY SCHOOL BOARD AND GAVIN GRIMM'S JOINT MOTION TO STAY ALL PROCEEDINGS IN THIS CASE PENDING APPEAL AND FOR AN EXTENSION OF TIME FOR THE SCHOOL BOARD TO FILE AN ANSWER TO GRIMM'S AMENDED COMPLAINT

I. INTRODUCTION

On May 22, 2018, this Court denied the Amended Motion to Dismiss filed by Defendant Gloucester County School Board ("School Board"). ECF Doc. 148. On June 1, 2018, the School Board timely filed a Consent Motion to Certify an Interlocutory Appeal to the United States Fourth Circuit Court of Appeals. ECF Doc. 149. In conjunction with that Motion, the School Board and Plaintiff Gavin Grimm ("Grimm") jointly move this Court to stay the proceedings in this case, including the School Board's filing of an Answer to the Amended Complaint, pending this Court's ruling on the School Board's Consent Motion to Certify and any subsequent ruling made by the Fourth Circuit related to the School Board's interlocutory appeal. For the reasons stated below, this joint motion should be granted.

II. LAW AND ARGUMENT

"A court's power to grant a motion to stay comes not from the Federal Rules of Civil Procedure, but from the court's inherent power 'under its general equity powers and in the

efficient management of their dockets.’” *Sierra Club v. VEPCO*, Case No. 2:15-cv-112, 2016 WL 5349081 at *2 (E.D. Va. Feb 4, 2016) (quoting *PMB Nutritionals, LLC v. Dornoch Ltd.*, 667 F. Supp. 2d 621, 631 (E.D. Va. 2009)). “In determining whether to grant the stay, the court must ‘weigh competing interests and maintain an even balance.’” *Id.* (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936)). “In making this decision, courts should consider 1) the interests of judicial economy; 2) the hardship and equity to the moving party if the action is not stayed; and 3) the potential prejudice to the nonmoving party.” *Clinton v. Gov’t Employees Ins. Co.*, No. 2:16CV430, 2016 WL 9308421, at *1 (E.D. Va. Nov. 23, 2016)

Here, all the factors for a stay are met, and this Court should stay all proceedings in this case until it rules on the School Board’s Consent Motion to Certify an Interlocutory Appeal and, if that motion is granted, until the Fourth Circuit issues a ruling on that appeal.

First, as explained in the Motion for Certification of an Interlocutory Appeal, a final determination of the central legal issues in this case will potentially facilitate an efficient resolution to this litigation, thereby promoting the efficient use of judicial resources and serving the public interest. Second, both parties agree that a stay is warranted and both parties will suffer irreparable injury if this consent motion for stay is not granted, as a final ruling on these pure legal issues, whether by the Fourth Circuit or the Supreme Court of the United States, will likely obviate the need for discovery or significantly reduce that discovery’s scope. In short, staying this matter pending this Court’s ruling on the School Board’s Consent Motion to Certify and any subsequent ruling made by the Fourth Circuit related to the School Board’s interlocutory appeal is in the interest of both parties and the efficient administration of justice.

Finally, the Court may extend the time by which the School Board must file an Answer to Grimm’s Amended Complaint pursuant to Fed. R. Civ. P. 6(b)(1)(A). (“When an act may or

must be done within a specified time, the court may, for good cause, extend the time with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires”). Both parties request that the School Board’s deadline to file an Answer to Plaintiff’s Amended Complaint be extended until ten (10) days after the entry of an order by this Court on the School Board’s Consent Motion to Certify or any subsequent ruling made by the Fourth Circuit related to the School Board’s interlocutory appeal.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, Defendant Gloucester County School Board and Plaintiff Gavin Grimm jointly request that this Court stay all the proceedings in this case pending this Court’s ruling on the School Board’s Consent Motion to Certify Interlocutory Appeal (ECF Doc. 149) and any subsequent ruling by the Fourth Circuit on that appeal.

**GLOUCESTER COUNTY SCHOOL
BOARD**

By Counsel

/s/

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CERTIFICATE

I hereby certify that on the 4th day of June 2018, I filed a copy of the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send a Notice of Electronic Filing to all counsel of record.

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