

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

NICHOLAS HARRISON, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	1:18-cv-641 (LMB/IDD)
	)	
RICHARD V. SPENCER, Acting Secretary of	)	
Defense, <u>et al.</u> ,	)	
	)	
Defendants.	)	

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RICHARD ROE, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	1:18-cv-1565 (LMB/IDD)
	)	
RICHARD V. SPENCER, Acting Secretary of	)	
Defense, <u>et al.</u> ,	)	
	)	
Defendants.	)	

ORDER

Defendants in the above-captioned actions have moved for a stay of the proceedings, particularly of briefing on summary judgment and the bench trial set to begin on September 9, 2019. Defendants argue that the Fourth Circuit’s decision in Roe v. United States Department of Defense, No. 19-1410—which is scheduled for oral argument on September 18, 2019—“will provide substantial[] and potentially dispositive[] guidance on many issues in both the Harrison and Roe cases, thereby narrowing the issues to be decided on summary judgment and trial.” Defs.’ Mot. to Stay 4. Plaintiffs oppose defendants’ motion, arguing that the motion is untimely and that issuing a stay would be inappropriate under the circumstances.

Deciding whether to grant a request to stay proceedings requires a district court to “balance the various factors relevant to the expeditious and comprehensive disposition of the cause[] of

action,” Maryland v. Universal Elections, Inc., 729 F.3d 370, 375 (4th Cir. 2013) (citation omitted). In particular, a court must consider “(1) the interests of judicial economy; (2) hardship and equity to the moving party if the action is not stayed; [and] (3) potential prejudice to the non-moving party,” Gibbs v. Plain Green, LLC, 331 F. Supp. 3d 518, 525 (E.D. Va. 2018) (citation omitted).

Having reviewed the parties’ submissions, the Court concludes that a stay is appropriate. The Fourth Circuit’s decision in Roe could provide guidance as to many of the issues raised by the parties in both civil actions and potentially obviate the need for further proceedings. Requiring the parties to brief and argue summary judgment and, if summary judgment is not granted, to engage in a multiday bench trial while they are actively litigating the appeal would impose a hardship on counsel and raise a genuine risk of wasted resources and duplicative efforts. Moreover, the Court does not find that plaintiffs would be unduly prejudiced by a stay, particularly given the individual plaintiffs’ statuses and the protections provided in the preliminary injunction issued in Roe, which will remain in effect at least through the date of the Fourth Circuit’s decision. Accordingly, defendants’ motions to stay [1:18-cv-641, Dkt. No. 219; 1:18-cv-1565, Dkt. No. 214] are GRANTED, and it is hereby

ORDERED that the bench trial scheduled to begin on September 9, 2019 be and is CANCELLED; and it is further

ORDERED that all proceedings in these civil actions be and are STAYED until further order of the Court.<sup>1</sup>

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 1<sup>st</sup> day of August, 2019.

Alexandria, Virginia

  
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/s/ Leonie M. Brinkema  
United States District Judge

<sup>1</sup> To conserve judicial resources, any remaining discovery disputes and defendants’ pending motions to dismiss plaintiff OutServe for lack of standing will be held in abeyance until the stay is lifted.