

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STACIE RAY, et al.)	CASE NO.: 2:18-cv-00272-MHW-CMV
)	
Plaintiffs,)	JUDGE MICHAEL WATSON
)	
vs.)	MAGISTRATE JUDGE CHELSEY
)	VASCURA
LANCE HIMES, et al.)	
)	
Defendants.)	

**REPLY IN SUPPORT OF DEFENDANTS’
EMERGENCY MOTION FOR INTERIM STAY**

I. INTRODUCTION

Pending is Defendants’ Emergency Motion for Interim Stay (the “Motion”), which seeks a brief stay of discovery while Defendants’ primary Motion to Stay (Doc. 21) is being considered by the Court. The Motion was submitted at the Court’s request, and only after Plaintiffs refused to consent to the interim stay. As this Court stated during the Preliminary Pretrial Conference on July 18, 2018, interim motions to stay are routinely granted in this district to allow the Court time to consider broader, more extensive motions to stay. Plaintiffs’ opposition fails to justify the denial of the limited relief sought in the Motion, and this Court should grant the interim stay.

II. ARGUMENT

This Court should grant the Motion and enter an Order staying discovery until Defendants’ primary motion to stay is resolved. The primary Motion to Stay (Doc. 21) seeks a stay of discovery (including the parties’ obligations under Rule 26) until this Court rules on Defendants’ Motion to Dismiss the complaint (Doc. 18). The primary Motion to Stay was filed on July 20, 2018 and will be fully briefed and ripe for decision in just 23 days (if not sooner).

Shortly before Defendants' filed the primary Motion to Stay (and before this Court even held the Rule 16 Scheduling Conference), Plaintiffs served extensive discovery requests. Defendants' responses to those requests will be due before the primary Motion to Stay is resolved. Accordingly, if this Court does not enter an Order granting an interim stay, then it will effectively deny the primary Motion to Stay without any consideration by the Court. To avoid this inequitable result, and to maintain the status quo, this Court should enter a short interim stay of discovery until the Court resolves the broader issue of whether a stay pending a ruling on Defendants' Motion to Dismiss is appropriate. Nothing in Plaintiffs' opposition warrants a different result.

Plaintiffs contend that interim motions to stay, as a general matter, are "meritless." Doc. 24 at 1. Plaintiffs offer no authority in support of that broad proposition, which runs counter to this Court's own experience and practice. Plaintiffs glibly assert that "Defendants have failed to demonstrate any need for an interim stay." *Id.* at 2. But that statement plainly ignores the arguments raised in the Motion, including the fact that denying the interim motion will have the practical impact of denying, without any consideration by this Court, the primary Motion to Stay. While Plaintiffs stray and argue the merits of both the pending Motion to Dismiss and primary Motion to Stay in their scant five-page opposition to the Motion, the interim motion to stay is neither the time nor the place for such arguments (just as the Motion is not the appropriate vehicle to argue about the overbreadth and irrelevancy of Plaintiffs' discovery requests). The Motion simply seeks to maintain the status quo while this Court resolves the primary Motion to Stay, nothing more.

Nor do Plaintiffs' opposition papers set forth any discernable prejudice if this Court grants the Motion. Plaintiffs' obliquely contend that they will be prejudiced if there is an "extension of discovery and the case schedule," but the Motion seeks neither, and Plaintiffs fail to identify what

harm will result from a brief pause to discovery until the Court resolves the broader Motion to Stay.

III. CONCLUSION

For the foregoing reasons, Defendants respectfully submit that their Motion for Interim Stay should be granted. This Court should stay discovery until Defendants' primary Motion to Stay (Doc. 21) is resolved. Such stay order should apply to all pending discovery requests, as well as the initial disclosures under Rule 26(a).

Dated: August 1, 2018

Respectfully submitted,

/s/ Jason J. Blake

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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2018, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Jason J. Blake

One of the Attorneys for Defendants