

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

CHRISTOPHER FAIN, *et al.*, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

WILLIAM CROUCH, *et al.*,

Defendants.

CIVIL ACTION NO. 3:20-cv-00740

HON. ROBERT C. CHAMBERS, JUDGE

JOINT MOTION TO STAY CERTAIN CASE SCHEDULE DEADLINES

Defendant The Health Plan of West Virginia, Inc. (“The Health Plan”), Defendant Cheatham, and Plaintiffs Zachary Martell, and Brian McNemar (collectively, “Plaintiffs”) jointly move this Court to stay certain case schedule deadlines. Defendant The Health Plan, Mr. Martell, and Mr. McNemar have reached a settlement in principle, and require additional time to memorialize it and seek approval of the class action-related elements of their agreement from the Court. Defendant Cheatham joins this motion because a final resolution of Mr. Martell and Mr. McNemar’s claims as to Defendant The Health Plan will likely resolve Mr. Martell and Mr. McNemar’s claims as to Defendant Cheatham as well.¹ The parties anticipate that the process of memorializing and implementing the settlement agreement will involve moving the Court for preliminary approval of the settlement on behalf of the class (including certification of the class for settlement purposes only), providing appropriate notice, and moving the Court for final approval.

¹ This motion does not affect the claims of Plaintiff Christopher Fain and putative Plaintiff Shauntae Anderson against Defendants William Crouch, Cynthia Beane, and the West Virginia Department of Health and Human Resources, Bureau for Medical Services.

Without the relief sought in this motion, the December 1, 2021 cut-off in the case schedule and related deadlines would require the parties to complete fact discovery on Plaintiffs' claims, even as The Health Plan and Plaintiffs have agreed in principle to settle them. ECF No. 75 ¶ 2. Accordingly, the parties request that certain deadlines be stayed to preserve judicial and party economy while the parties work to finalize and seek Court approval for their settlement.

Specifically, the parties request that:

1. The remaining deadlines in the case schedule be stayed with respect to the claims of Plaintiffs Zachary Martell and Brian McNemar against The Health Plan until the Court rules on the parties' anticipated motion for preliminary approval of a class settlement. The parties further request that if that motion is denied, the Court order The Health Plan, Mr. Martell, and Mr. McNemar to file a status report within 10 days of the Court's ruling with the parties' recommendations regarding further proceedings.

2. The parties request that the remaining deadlines in the case schedule be stayed with respect to the claims of Plaintiffs Zachary Martell and Brian McNemar against Defendant Cheatham until the Court rules on Plaintiffs' pending motion to file a First Amended Complaint. ECF Nos. 106-109. The parties further request that the October 18, 2021 deadline to serve discovery requests be stayed as to claims against Defendant Cheatham until seven days after the Court rules on the motion to amend the complaint. ECF No. 75 ¶ 2.

The parties rely on the concurrently-filed memorandum of law in support of this motion and request that the Court enter the attached proposed order.

* * *

Dated: October 15, 2021

Respectfully submitted,

/s/ Aaron C. Boone

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CERTIFICATE OF SERVICE

Now come Plaintiffs Christopher Fain, Zachary Martell and Brian McNemar by and through counsel, and do hereby certify that the foregoing JOINT MOTION TO STAY CERTAIN CASE SCHEDULE DEADLINES was served on Defendants' counsel listed below via email on October 15, 2021:

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HON. ROBERT C. CHAMBERS, JUDGE

**ORDER GRANTING JOINT MOTION TO
STAY CERTAIN CASE SCHEDULE DEADLINES**

This matter comes before the Court on a joint motion by Defendants The Health Plan of West Virginia, Inc. (“The Health Plan”) and Ted Cheatham, and Plaintiffs Zachary Martell and Brian McNemar, to stay certain case schedule deadlines. For good cause shown, it is ORDERED that the parties’ joint motion be and hereby is GRANTED:

1. The remaining deadlines in the case schedule are stayed with respect to the claims of Plaintiffs Zachary Martell and Brian McNemar against The Health Plan until the Court rules on the parties’ anticipated motion for preliminary approval of a class settlement. If that motion is denied, The Health Plan, Mr. Martell, and Mr. McNemar shall file a status report within 10 days of the Court’s ruling with the parties’ recommendations regarding further proceedings.

2. The remaining deadlines in the case schedule are stayed with respect to the claims of Plaintiffs Zachary Martell and Brian McNemar against Defendant Cheatham until the Court rules on Plaintiffs’ pending motion to file a First Amended Complaint. ECF Nos. 106-109. The October 18, 2021 deadline in the case schedule to serve discovery requests as to claims against

Defendant Cheatham, ECF No. 75 ¶ 2, is stayed until seven days after the Court rules on the motion to amend the complaint.

IT IS SO ORDERED.

Dated: _____

Honorable Robert C. Chambers
U.S. District Court Judge