

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

**MEMORANDUM IN SUPPORT OF 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

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.

for settlement purposes only), providing appropriate notice, and moving the Court for final approval.

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.

ARGUMENT

“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for

counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” *Landis v. North Am. Co.*, 299 U.S. 248, 254-55 (U.S. 1936); *see also Xiu Jin Lin v. McAleenan*, No. 3:19-CV-00283, 2019 WL 5688299, at *10 (S.D.W. Va. Oct. 7, 2019), report and recommendation adopted, No. CV 3:19-0283, 2019 WL 5688189 (S.D.W. Va. Nov. 1, 2019). “A district court has broad power to issue stays to control its docket, and it can use that power to craft” solutions to scheduling issues. *Raplee v. United States*, 842 F.3d 328, 335 (4th Cir. 2016). The Court sometimes considers three factors in determining whether to grant a stay, and all weigh in favor of granting the requested stay here. *See White v. Ally Fin. Inc.*, 969 F. Supp. 2d 451, 462 (S.D.W. Va. 2013) (stating that the courts examine “(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”) (quote omitted). Here, judicial economy supports entry of the stay, which may obviate the need for the Court both to manage discovery disputes between the parties and to decide Plaintiffs’ claims on the merits. Additionally, because all parties affected by the stay join this motion, there is no prejudice to any party and the equities for all parties weigh in favor of entry of the stay.

Finally, “the law encourages settlements.” *Bragg v. Robertson*, 54 F. Supp. 2d 653, 660 (S.D.W. Va. 1999) (citing *United States v. State of North Carolina*, 180 F.3d 574, 581 (4th Cir.1999)). Granting the requested stay will facilitate the ability of the parties to resolve this dispute on terms agreeable to all affected parties, while reducing the burden on the Court.

CONCLUSION

For the foregoing reasons, the parties respectfully request that the Court grant the Joint Motion to Stay Certain Case Schedule Deadlines and enter the accompanying proposed order.

Dated: October 15, 2021

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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 MEMORANDUM IN SUPPORT OF 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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