

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
KNOXVILLE DIVISION**

THE STATE OF TENNESSEE, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
EDUCATION, *et al.*,

Defendants.

Case No. 3:21-cv-00308

District Judge Charles E. Atchley, Jr.

**DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION TO STAY THE ANSWER  
DEADLINE, OR IN THE ALTERNATIVE, TO EXTEND TIME TO ANSWER**

Plaintiffs have filed a lengthy opposition to Defendants' motion to extend the answer deadline, or in the alternative, to extend their deadline by 60 days. *See* ECF No. 88 (Pls' Opp.). Defendants motion to stay, or in the alternative, to extend, the answer deadline, ECF NO. 87, demonstrates good cause, and nowhere in Plaintiffs' opposition do they identify any reason an Answer would be necessary or useful in this case. Instead, they claim prejudice based on the notion that "Defendants apparently . . . seek to delay" the litigation, although Defendants' motion itself makes clear that that is not the case. *See* ECF No. 87 ¶ 11. And Plaintiffs cannot reasonably claim to be prejudiced by a USDA document or the Department of Education's notice-and-comment process that they do not challenge in this action. *See* Pls.' Opp. at 4-5. Moreover, notwithstanding Plaintiffs' disputes over the procedural postures of the several examples provided in Defendants' opening motion, the fact remains that delaying an Answer until after cross-motions for summary judgment is very common where a case presents purely legal issues, because in such cases an Answer is all but useless. *See, e.g., Parker v. United States Dep't of Justice*, 214 F.Supp.3d 79, 85 (D.D.C. 2016) ("A defendant . . . is not required to

respond in the form of an answer before making a motion for summary judgment, which may be made by a defending party at any time.”) (internal quotations and additional citations omitted); *see also First Nat’l Bank of Ariz. v. Cities Service Co.*, 391 U.S. 253, 290, 292 n.20 (1968) (affirming grant of summary judgment to defendant who never filed answer during litigation spanning more than six years); *Koch v. Walter*, 935 F.Supp.2d 143, 147 n.3 (D.D.C. 2013) (rejecting plaintiff’s objection to defendant’s filing motion for summary judgment instead of answer); Minute Order, *New York v. Trump*, 1:20-cv-02340-EGS (D.D.C. Dec. 14, 2020) (staying defendants’ deadline to answer the complaint until thirty days following the court’s decision on the cross-motions for summary judgment); Order, *Pennsylvania v. DeVos*, 1:20-cv-01468-CJN, ECF No. 105 (D.D.C. Oct. 16, 2020) (similar); Order, *Am. Hosp. Ass’n v. Azar*, No. 1:19-cv-3619, ECF No. 18 (D.D.C. Dec. 18, 2019); (similar); Order, *City of Chicago v. Azar*, No. 1:20-cv-1566, ECF No. 14 (D.D.C. June 22, 2020) (similar); Minute Order, *Young v. U.S. EPA*, 1:21-cv-2623 (D.D.C. Oct 19, 2021) (similar); Order, *LifeNet, Inc. v. HHS*, No. 6:22-cv-162-JDK, ECF No. 39 (E.D. Tex. July 5, 2022) (similar).

Because Defendants have shown good cause, and Plaintiffs do not identify any utility from an Answer, or any actual prejudice from the requested relief, the Court should grant Defendants’ motion.

Dated: July 28, 2022

Respectfully submitted,

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