

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, SOUTHERN REGION**

SOUTHERN UTAH DRAG STARS;
MITSKI AVALŌX,
Plaintiffs,

v.

CITY OF ST. GEORGE;
CITY COUNCIL OF ST. GEORGE;
COUNCILMEMBER JIMMIE HUGHES, in his
official capacity;
COUNCILMEMBER DANNIELLE LARKIN in her
official capacity;
COUNCILMEMBER NATALIE LARSEN in her
official capacity;
COUNCILMEMBER GREGG MCARTHUR in his
official capacity;
COUNCILMEMBER MICHELLE TANNER in her
official capacity;
MAYOR MICHELE RANDALL in her official
capacity;
CITY MANAGER JOHN WILLIS in his official
capacity,
Defendants.

Case No. 4:23-cv-00044-PK-DN

Judge David Nuffer
Magistrate Judge Paul Kohler

**PLAINTIFFS' MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTION TO STAY DISCOVERY**

INTRODUCTION

Defendants' request for a stay of discovery pending the Court's ruling on their motion for partial summary judgment should be denied. Not only is the request procedurally improper, Defendants also fail to satisfy their heavy burden to further delay this litigation.

LEGAL STANDARD

A party seeking a stay of discovery must demonstrate "good cause" for such relief.¹ The movant "generally faces a difficult burden."² "[A] movant [who] seeks relief that would delay court proceedings by other litigants . . . must make a strong showing of necessity because the relief

¹ Fed. R. Civ. P. 26(c)(1).

² *White Knuckle, IP, LLC v. Elec. Arts Inc.*, 2015 WL 5022579, at *1 (D. Utah Aug. 24, 2015).

would severely affect the rights of others.”³

ARGUMENT

Defendants’ Motion Is Procedurally Improper. Both Rule 26(c) and DUCivR 37-1 required that Defendants’ motion include a certification of conference with other affected parties.⁴ Defendants, however, made no attempt to meet-and-confer with Plaintiffs before filing the motion. Further, Defendants’ motion comes nowhere near complying with DUCivR 37-1(b)(1)’s 500-word limit for discovery motions.⁵ The Court should deny the motion for these reasons alone.

Defendants’ Motion Also Fails on the Merits. Defendants also fail to meet their “difficult burden” to obtain a stay. They assert that discovery may be “significantly reduced”⁶ if the Court grants them summary judgment on Plaintiffs’ claims for injunctive and declaratory relief. They are wrong, because Plaintiffs’ damages claims would remain in the case, and Plaintiffs require the same discovery to establish Defendants’ liability on those claims. Indeed, Defendants fail to identify any discovery that would become irrelevant if their summary judgment motion is granted.

In any event, “it would be inappropriate to issue a stay of discovery based only on one party’s argument that its own motion is likely to be granted.”⁷ Any costs Defendants incur in discovery cannot constitute “‘extreme circumstances’ warranting the court to grant a stay of discovery.”⁸ On the other hand, “[d]elays of discovery hinder the ‘just, speedy, and inexpensive

³ *Id.*

⁴ See Fed. R. Civ. P. 26(c)(1) (requiring “a certification that the movant has in good faith conferred or attempted to confer with other affected parties”); DUCivR 37-1(b)(2) (requiring detailed meet-and-confer certification).

⁵ See DUCivR 37-1(b)(1); see also *Welsh v. Safeco Ins. Co. of Am.*, 2022 WL 2065667, at *1 n.2 (D. Utah June 8, 2022) (construing motion to stay discovery as governed by DUCivR 37-1).

⁶ ECF No. 86 at 5.

⁷ *Welsh*, 2022 WL 2065667, at *2 (collecting cases).

⁸ *Id.*

determination of every action and proceeding.”⁹ Significant time has already been lost due to an unsuccessful mediation. Ordering “a stay would impermissibly prejudice [Plaintiffs] by delaying the progression and resolution of this litigation.”¹⁰

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court deny Defendants’ motion.

Dated this 16th day of January, 2024.

/s/ Jeremy Creelan

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⁹ *United States ex rel. Brooks v. Stevens-Henager Coll., Inc.*, 2017 WL 5241002, at *2 (D. Utah June 23, 2017) (quoting Fed. R. Civ. P. 1).

¹⁰ *Classic Aviation Holdings LLC v. Harrower*, 2021 WL 633587, at *3 (D. Utah Feb. 18, 2021).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all Defendants via this Court's CM/ECF system on January 16, 2024.

s/ Jeremy Creelan