

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

SHEILA McNEIL,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Case No. 2:26-cv-00411-BL-JTA
	)	
HON. KAY IVEY, in her official	)	Unopposed
capacity as Governor of the State	)	
of Alabama, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	
	)	

**STATE DEFENDANTS’ UNOPPOSED MOTION TO STAY ALL  
REQUIREMENTS TO CONDUCT A PLANNING CONFERENCE**

Governor Ivey and Attorney General Marshall respectfully move the Court to stay the parties’ obligation to conduct a Rule 26(f) conference in light of their pending motion to dismiss, doc11. The parties have conferred, and McNeil does not oppose motion.

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Rule 26(f) generally requires a planning conference “as soon as practicable,” but that obligation does not apply “when the court orders otherwise.” Fed. R. Civ. P. 26(f)(1). By default, this Court’s Initial Order requires the parties to conduct their Rule 26(f) conference “no later than 21 days after the appearance of all defendants.” Doc. 6 at 1. Here, the State Defendants have filed a comprehensive motion to dismiss

that, among other things, raises jurisdictional and immunity issues and denies that any claim should be permitted to proceed. Doc. 11. Under these circumstances, a stay is warranted.

In *Chudasama v. Mazda Motor Corporation*, 123 F.3d 1353 (11th Cir. 1997), the Eleventh Circuit explained that:

Facial challenges to the legal sufficiency of a claim or defense, such as a motion to dismiss based on failure to state a claim for relief, should ... be resolved before discovery begins. Such a dispute always presents a purely legal question; there are no issues of fact because the allegations contained in the pleading are presumed to be true. Therefore, neither the parties nor the court have any need for discovery before the court rules on the motion.

123 F.3d at 1367 (footnote and citations omitted).

Avoiding unneeded discovery is critical. “Discovery imposes several costs on the litigant from whom discovery is sought. These burdens include the time spent searching for and compiling relevant documents [as well as] the time, expense, and aggravation of preparing for and attending depositions” and more. *Id.* “The party seeking discovery also bears costs, including attorneys’ fees generated in drafting discovery requests and reviewing the opponent’s objections and responses. Both parties incur costs related to the delay discovery imposes on reaching the merits of the case.” *Id.* And, of course, “discovery imposes burdens on the judicial system; scarce judicial resources must be diverted from other cases to resolve discovery disputes.” *Id.* at 1367-68 (footnote omitted).

Accordingly, the *Chudasama* Court recognized that, “[i]f the district court dismisses a nonmeritorious claim before discovery has begun, unnecessary costs to the litigants and to the court system can be avoided.” *Id.* at 1368. “Allowing a case to proceed through the pretrial processes with an invalid claim that increases the costs of the case does nothing but waste the resources of the litigants in the action before the court, delay resolution of disputes between other litigants, squander scarce judicial resources, and damage the integrity and the public’s perception of the federal judicial system.” *Id.*

Separately, the State Defendants note that they raised sovereign immunity as a defense. Doc. 11 at 12-14. Sovereign immunity “protects government officials not only from having to stand trial, but from having to bear the burdens attendant to litigation, including pretrial discovery.” *Blinco v. Green Tree Servicing, LLC*, 366 F.3d 1249, 1252 (11th Cir. 2004) (holding that, when asked, the district court should have stayed proceedings while a party took a nonfrivolous appeal of an order denying a motion to compel arbitration). Thus, this defense also counsels in favor of a stay pending resolution of the motion to dismiss.

Discovery should not commence, and plans for it should not be made, before the Court determines which claims, if any, will proceed and as to which defendants.

Respectfully submitted,

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