

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:07-CV-231 F

PAMELA HENSLEY,)
)
Plaintiff,)
)
v.)
)
JOHNSTON COUNTY BOARD OF)
EDUCATION, and ANTHONY L.)
PARKER, in his capacity as the)
Superintendent of Johnston County)
Schools and in his individual capacity,)
)
Defendants.)

ORDER

This matter is before the court on Defendants' Motion to Stay Discovery [DE-11]. Plaintiff has filed a Response, and this matter is ripe for disposition.

On May 24, 2007, Plaintiff Pamela L. Hensley filed a Complaint and Demand for Jury Trial in the Johnston County Superior Court alleging violations of the First and Fourteenth Amendments of the United States Constitution, violations of the North Carolina Constitution, and violations of Title VII and the Americans With Disabilities Act. On June 20, 2007, Defendants filed a Notice of Removal to the United States District Court for the Eastern District of North Carolina. On June 25, 2007, the court granted Defendants an extension of time to respond to the Complaint, up to and including July 30, 2007. On July 30, 2007, Defendants filed a Motion to Dismiss all the claims in this action pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure. Defendants now move to stay all discovery in this action, including the requirements to conduct an initial pretrial conference, submit a discovery plan under Rule

26(f) of the Federal Rules of Civil Procedure, and to provide initial disclosures pursuant to Rule 26(a) of the Federal Rules of Civil Procedure.

“A trial court has broad discretion and inherent power to stay discovery until preliminary issues can be settled which may be dispositive of some important aspect of the case.” *Simpson v. Specialty Retail Concepts, Inc.*, 121 F.R.D. 261, 263 (M.D.N.C. 1988) (citing *Petrus v. Bowen*, 833 F.2d 581, 583 (5th Cir. 1987)). Motions to stay discovery may be granted pursuant to Federal Rule of Civil Procedure 26(c), and the moving party bears the burden of showing good cause and reasonableness. *Id.*

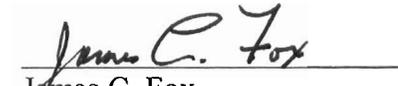
In this case, Defendants argue that a stay is appropriate because the pending Motion to Dismiss may obviate the need for discovery as to some, if not all, of Plaintiff’s claims. Moreover, Defendants represent that nothing the parties would learn in discovery would affect the court’s analysis in the pending Motion to Dismiss, because the court must accept the factual pleadings as presented in the Plaintiff’s Complaint. Plaintiff, however, opposes staying discovery, arguing that the Motion to Dismiss eventually should be denied, and that Defendants have not demonstrated that they will be subjected to a clear hardship or inequity if forced to go forward with discovery.

The court finds that Defendants have demonstrated good cause for the Motion to Stay, and that the request to stay discovery is reasonable, especially considering that the pending Motion to Dismiss may dispose of some of Plaintiff’s claims. Accordingly, Defendants’ Motion to Stay Discovery [DE-11] is ALLOWED, and it is hereby ORDERED that all discovery in this action, including the initial pretrial conference and discovery plan required by Rule 26(f) of the

Federal Rules of Civil Procedure and the onset of any and all discovery requirements including initial disclosures required by Rule 26(a), are STAYED until further order of the court.

SO ORDERED.

This the 10th day of September, 2007.



James C. Fox
Senior United States District Judge