

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

SIMON BRONNER, et al.,

Plaintiffs,

v.

LISA DUGGAN, et al.,

Defendants.

Case No: 1:16-cv-00740-RC

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**MOTION TO STAY DISCOVERY /  
MOTION FOR PROTECTIVE ORDER  
PENDING RESOLUTION OF DEFENDANTS' MOTIONS  
TO DISMISS THE CASE IN ITS ENTIRETY  
BY DEFENDANTS THE AMERICAN STUDIES ASSOCIATION,  
LISA DUGGAN, SUNAINA MAIRA, CURTIS MAREZ, NEFERTI TADIAR,  
CHANDAN REDDY AND JOHN STEPHENS**

Defendants American Studies Association, Lisa Duggan, Sunaina Maira, Curtis Marez, Neferti Tadiar, Chandan Reddy and John Stephens move the Court for an Order staying discovery in this matter pending the outcome of the Motions to Dismiss the Second Amended Complaint, filed this date.

The Motions to dismiss would, if granted, dispense with the entire case. If the Court finds that the case should be dismissed, time and money spent on discovery during the pendency of the Motions will have been for naught. Conversely, the Plaintiffs suffer no undue prejudice from the stay of discovery during the pendency of

the Motion. Under the analysis employed in this District, discovery should be stayed, in the interest of economy – both financial and judicial.

It is axiomatic that a trial court has broad discretion and inherent power to stay discovery until preliminary questions that may dispose of the case are determined. *Chavous v. Dist. of Columbia Fin. Responsibility & Mgmt. Assistance Auth.*, 201 F.R.D. 1, 2 (D.D.C. 2001); see also *Brennan v. Local Union No. 639, Int'l Broth. of Teamsters, Chauffeurs, Warehousemen & Helpers of Am.*, 494 F.2d 1092, 1100 (D.C. Cir. 1974) (“Trial courts...have broad powers to regulate or prevent discovery and such powers have always been freely exercised.”). In the District of Columbia, a stay of discovery while a motion to dismiss the case is pending has repeatedly been acknowledged as both prudent and appropriate, particularly when the motion would be thoroughly dispositive of the complaint. *Sai v. Dept. of Homeland Security*, 99 F. Supp. 3d 50, 58 (D.C.C. 2015). A stay of discovery pending a motion to dismiss has been described as “an eminently logical means to prevent wasting time and effort of all concerned, and to make the most efficient use of judicial resources.” *Chavous*, 201 F.R.D. at 2 (citing *Anderson v. U.S. Attorneys Office*, 1992 WL 159186, at \*1 (D. D.C. June 19, 1992)). Such an approach vindicates that goal of the discovery process described in Fed. R. Civ. P. 1 – ensuring the “just, speedy and inexpensive determination of every action and proceeding.” The court in *Institut Pasteur v. Chiron Corp.*, 315 F. Supp. 33, 37 (D.D.C. 2004), quoting *Chavous*, put it succinctly:

It is well settled that discovery is generally considered inappropriate while a motion that would be thoroughly dispositive of the claims in the Complaint is pending.

(staying discovery pending motion to dismiss an amended complaint). *See also Loumiet v. United States*, 225 F. Supp. 3d 79, 82 (D.D.C. 2016).

The Motions by all Defendants would, if granted dispense with the entire matter on the basis, among others, that the Court lacks subject matter jurisdiction. If the Court were to find that the matter should be dismissed, the Defendants would be irretrievably prejudiced by further expenditure of time and resources in discovery; conversely, if after considering the Motion the Court decides that the case is not entirely disposed of, the Plaintiffs will merely have to wait some additional period of time to obtain discovery (note in this regard that the Plaintiffs were hardly in a rush to file this action, which was filed two years after the issuance of the Resolution).

Under well-established precedent and under Rule Civ. P. 1, all discovery should be stayed pending the Court's determination of the several Motions to Dismiss.<sup>1</sup>

Respectfully submitted,

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<sup>1</sup> Defendants recognize that the Court has ordered production of certain documents that the parties had discussed in late 2017, and the original Defendants are diligently reviewing more than 10,000 documents toward that end. The focus of the Motion is a stay of any discovery other than that production, which Defendants expect to make the first week of September.

/s/ Jeff C. Seaman

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**PROTECTIVE ORDER**

Upon Motion by Defendants American Studies Association, Lisa Duggan, Sunaina Maira, Curtis Marez, Neferti Tadiar, Chandan Reddy and John Stephens to stay discovery pending determination of the Motions to Dismiss filed August 27, 2018, the Court having considered same, as well as Plaintiffs' opposition thereto,

IT IS ORDERED that the Motion is GRANTED. All discovery, with the exception of production of those documents the original Defendants were ordered to produce at the August 15, 2018 hearing, is hereby STAYED until further order by the Court.

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Rudolph Contreras, Judge