

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

DÉJÀ VU OF NASHVILLE, INC., and
THE PARKING GUYS, INC.,

Plaintiffs,

v.

METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON
COUNTY, *et al.*

Defendants.

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Case No.: 3:18-cv-00511

Chief Judge Crenshaw

**DEFENDANT LINDA SCHIPANI’S MOTION TO STAY DISCOVERY AND
POSTPONE INITIAL CASE MANAGEMENT**

Pursuant to Local Rules 16.01(e)(1) and 16.01(d)(2)(h), Defendant Schipani respectfully moves this Court to stay discovery in this action and postpone the Initial Case Management Conference, which is currently set for August 22, 2018. (*See* Doc. #16.) As grounds for this Motion, Mrs. Schipani avers that she has claimed absolute witness immunity from this lawsuit and has also moved to dismiss the Plaintiffs’ Complaint for both failure to state a claim upon which relief can be granted and lack of subject matter jurisdiction. (*See* Doc. #17.) Because any of these claims is sufficient to resolve this action in its entirety upon a pure issue of law, Mrs. Schipani submits that until her dispositive Motion to Dismiss is resolved, discovery should be stayed, and a Case Management Conference setting a discovery schedule and other intermediate deadlines will not be of benefit to the Parties or to the Court.

“Trial courts have broad discretion and inherent power to stay discovery until preliminary questions that may dispose of the case are determined.” *Hahn v. Star Bank*, 190 F.3d 708, 719

(6th Cir. 1999); Fed. R. Civ. P. 26(c)(1) (“The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.”). “Although Rule 26 does not explicitly authorize the imposition of a stay of discovery, [i]t is settled that entry of an order staying discovery pending determination of dispositive motions is an appropriate exercise of the court’s discretion.” *Nichols v. Baptist Mem’l Hosp., Inc.*, No. 02-2561-MAV, 2004 WL 2905406, at *2 (W.D. Tenn. Apr. 2, 2004) (citation and internal quotation marks omitted).

“The very purpose of Fed. R. Civ. P. 12(b)(6) ‘is to enable defendants to challenge the legal sufficiency of complaints without subjecting themselves to discovery.’” *Yuhasz v. Brush Wellman, Inc.*, 341 F.3d 559, 566 (6th Cir. 2003) (quoting *Rutman Wine Co. v. E. & J. Gallo Winery*, 829 F.2d 729, 738 (9th Cir.1987)). Further, the purpose of absolute immunity—which Mrs. Schipani has invoked—is meant to protect her “not only from liability, but also from the ‘burdens of trial and discovery.’” *Spurlock v. Satterfield*, 167 F.3d 995, 1005 (6th Cir. 1999) (quoting *English v. Dyke*, 23 F.3d 1086, 1089 (6th Cir. 1994)).

In the Middle District of Tennessee, the Local Rules contemplate that the case management judge may stay discovery where appropriate. *See* M.D. Tenn. L.R. 16.01(e)(1) (authorizing a case management judge to stay discovery); M.D. Tenn. LR. 16.01(d)(2)(h) (providing that an initial case management order shall address “[a]ny stay of discovery”). This Court has also repeatedly recognized the propriety of staying discovery pending the resolution of threshold questions that are potentially dispositive of the entire case. *See, e.g., Marshall v. ESPN, Inc.*, No. 3:14-cv-1945, Dkt. 255 (M.D. Tenn. Feb. 5, 2015) (Sharp, J.) (order granting stay of discovery pending resolution of motion to dismiss); *Chapman v. Bell*, No. 3:11-cv-1135, Dkt. 116 (M.D. Tenn. Oct. 30, 2012) (order granting stay of discovery pending resolution of dispositive motions); *Daugherty v. Int’l*

Union, United Auto., Aerospace & Agric. Implement Workers of Am., No. 3:08-cv-695 (M.D. Tenn. Sept. 15, 2008) (order staying discovery for at least three months during pendency of motion to dismiss); *Daugherty v. Int'l Union, United Auto., Aerospace and Agric. Implement Workers of Am.*, No. 3:08-cv-695 (M.D. Tenn. Dec. 18, 2008) (order extending discovery stay for an additional three months during pendency of motion to dismiss). Here, the unnecessary burden that discovery would place on Mrs. Schipani—particularly given her claim of absolute witness immunity—merits a stay.

WHEREFORE, Defendant Schipani respectfully moves this Court to stay discovery and postpone the Initial Case Management Conference pending resolution of her Motion to Dismiss.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July, 2018, a copy of the foregoing was served via USPS mail, postage prepaid, emailed, and/or sent via CM/ECF, to the following parties:

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