

INTRODUCTION

Plaintiff filed this case against The Board and Flynn Warren alleging copyright infringement, trade secret misappropriation, and breach of contract. Along with the complaint, Plaintiff requested a temporary restraining order and expedited discovery. The court granted Plaintiff's requests.

The Board has not yet been heard on the issues involved in the case, but today along with this motion to stay, the Board is filing a motion to dismiss. The Board's motion to dismiss seeks to dismiss the entire case against it because the court lacks subject matter jurisdiction. Eleventh Amendment sovereign immunity protects The Board from this suit and thus, denies the court subject matter jurisdiction over the matter.

ARGUMENT

Defendant respectfully requests that all action in the case be stayed, including discovery, until the court rules on the pending motion to dismiss. The Federal Rules of Civil Procedure give the Court wide latitude in determining appropriate discovery, including the discretion to stay proceedings, to postpone discovery, or to impose protective orders and conditions when the interests of justice so require. See Fed. R. Civ. P. 26 (authorizing the entry of a protective

order in circumstances to protect parties from, among other things, “an undue burden or expense” relating to discovery). Where resolution of a preliminary motion may dispose of the entire action, the court has good cause to stay discovery. *See Patterson v. United States Postal Service*, 901 F.2d 927, 929 (11th Cir. 1990) (holding that the district court did not abuse its discretion by staying discovery where pending dispositive motions gave the court enough information to ascertain that further discovery was not likely to produce a genuine issue of material fact).

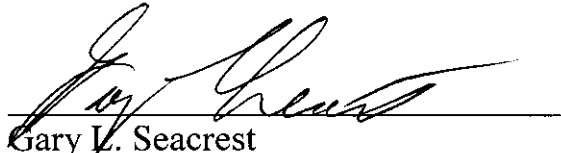
The presently pending Motion to Dismiss should resolve this case based purely on the legal issues involved; therefore, the court should stay the case to promote judicial economy and reduce expenses to the parties. If the case is not stayed, the parties will have to incur tens of thousands of dollars of discovery expense before the jurisdictional issues presented in the Motion to Dismiss have been addressed. The Court of Appeals for the Eleventh Circuit made clear in *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1368 (11th Cir. 1997), that “[d]iscovery should follow the filing of a well-pleaded complaint[,]” and that “any legally unsupported claim that would unduly enlarge the scope of discovery should be eliminated before the discovery stage, if possible.”

This Court therefore should enter a stay pending the resolution of the Defendant's Motion to Dismiss.

CONCLUSION

For all the foregoing reasons, Defendant respectfully requests that this Court grant its Motion, dismiss this matter, and stay the case pending the resolution of this Motion.

This 21st day of August, 2007.

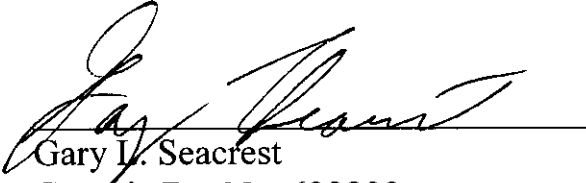


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This 24ST day of August, 2007



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