

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

MAURICE WALKER,

Plaintiff,

v.

CITY OF CALHOUN,
GEORGIA,

Defendant.

CIVIL ACTION FILE NO.
4:15-CV-170-HLM

ORDER

This case is before the Court on Defendant's Motion to Stay Proceedings Until the Pending Motion to Stay is Decided ("Motion to Stay") [74].

I. Background

The Court incorporates the background portions of its earlier Orders into this Order as if fully set forth herein, and

adds only those background facts that are relevant to the instant Motion. On June 16, 2017, the Court entered an Order granting Plaintiff's Motion for Preliminary Injunction. (Order of June 16, 2017 (Docket Entry No. 68).) Defendant promptly filed a Notice of Appeal. (Notice of Appeal (Docket Entry No. 69).)

On August 4, 2017, Defendant filed its Motion to Stay. (Mot. Stay (Docket Entry No. 74).) The briefing process for that Motion is complete, and the Court finds that the matter is ripe for resolution.

II. Discussion

Defendant seeks a stay of the proceedings in this Court, including discovery, until the United States Court of Appeals for the Eleventh Circuit issues a ruling on Defendant's pending appeal. (See generally Br. Supp. Mot. Stay (Docket Entry No. 74-1); Reply Supp. Mot. Stay (Docket Entry No.

82).) Importantly, Defendant does not seek to stay the Court's Order granting the preliminary injunction. (Reply Supp. Mot. Stay at 2.) Plaintiff opposes Defendant's Motion, arguing that Defendant fails to meet the standard for staying these proceedings and contending that a stay will prejudice Plaintiff. (See generally Resp. Mot. Stay (Docket Entry No. 79).)

“An appeal from a final judgment divests the district court from jurisdiction to proceed with matters involved in the appeal.” Fairchild Semiconductor Corp. v. Third Dimension (3D) Semiconductor, Inc., No. 2009-1168, 2009 WL 790105, at *1 (Fed. Cir. Mar. 25, 2009) (emphasis in original). “A preliminary injunction, i.e., an injunction pendete lite, is an injunction issued pending the ongoing litigation.” Id. “Although a district court may not proceed with matters involved with the injunction itself, e.g., it may not amend the

injunction, or make findings to support its injunction while the injunction is on appeal, the district court may proceed with the litigation and permit discovery, enter rulings on summary judgment, or hold a trial on the merits.” Id. (citations omitted).

A court “has discretion to stay the proceedings during the pendency of an appeal, as a proper exercise of control over its docket.” Outside the Box Innovations, LLC v. Travel Caddy, Inc., Civil Action No. 1:05-CV-2482-ODE, 2007 WL 7753799, at *4 (N.D. Ga. Aug. 7, 2007). “The factors the court assesses when considering a motion to stay are substantially similar to those weighed when deciding whether to grant a preliminary injunction, and the movant bears the burden of showing the balance of equities weights heavily in favor of granting the stay.” Sonnier v. Crain, 649 F. Supp. 2d 484, 491 (E.D. La. July 30, 2009). “To determine whether to

grant a stay, courts must evaluate: (1) whether [the] stay applicant has made [a] strong showing that he is likely to succeed on [the] merits; (2) whether [the] applicant will be irreparably injured absent [a] stay; (3) whether [the] issuance of [a] stay will substantially injure the other part[y's] interest in the proceeding; and (4) whether granting the stay serves the public interest.” Id.; see also F.T.C. v. IAB Mktg. Assocs., LP, 972 F. Supp. 2d 1307, 1311 (S.D. Fla. Sept. 18, 2013) (citing the same factors).

For purposes of this Order, the Court finds that Defendant has made a strong showing that it is likely to succeed on the merits. Although the Court found Defendant's arguments unpersuasive, the Eleventh Circuit may well disagree with this Court. The arguments are viable and present novel and important questions of law for the Eleventh Circuit to resolve.

The Court also finds that, for purposes of this Order, Defendant has demonstrated that it will suffer irreparable harm absent a stay. It appears that Defendant seeks to challenge the Court's Orders granting a preliminary injunction, granting class certification, and denying Defendant's Motion to Dismiss, or, in the Alternative, for More Definite Statement. (Reply Supp. Mot. Stay at 6.)¹ If the Eleventh Circuit disagrees with this Court on the Motion to Dismiss issues or on the class certification issues, the scope of this litigation may change and Defendant will unnecessarily have expended time and money litigating issues that should have been dismissed or engaging in class discovery. Even if the Eleventh Circuit limits Defendant's appeal to the Motion for Preliminary Injunction, the issues on

¹ The Court will not attempt to guess whether the Eleventh Circuit will permit Defendant to appeal the Motion to Dismiss or the Motion for Class Certification.

appeal involve legal questions that lie at the center of this litigation. If the Eleventh Circuit disagrees with this Court, then Defendant (and, importantly, the Court) will have expended resources unnecessarily.

The Court also cannot find that Plaintiff will suffer significant prejudice if the Court stays the proceedings in this action pending an appeal of the preliminary injunction. Any delay will not be lengthy, and the Court cannot find that witnesses' memories will grow substantially dimmer during that period. The Court therefore concludes that a stay of the proceedings will not have a substantial adverse effect on Plaintiff.

Finally, granting a stay will not disserve the public interest. The preliminary injunction will remain in place pending appeal to alleviate Plaintiff's concerns of wealth-based detention. Granting a stay will also conserve judicial

resources, as an appeal may impact and narrow the issues that the Court must resolve when addressing the merits of this action.

In sum, the Court concludes that a stay of proceedings pending appeal is warranted. The Court therefore grants the Motion to Stay.

III. Conclusion

ACCORDINGLY, the Court **GRANTS** Defendant's Motion to Stay [74], and **STAYS** the proceedings in this action pending the resolution of Defendant's appeal. The preliminary injunction issued on June 16, 2017, remains in full force and effect.

IT IS SO ORDERED, this the 17th day of August, 2017.



SENIOR UNITED STATES DISTRICT JUDGE