

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION

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BLUE CROSS BLUE SHIELD OF TEXAS, A  
DIVISION OF HEALTH CARE SERVICE  
CORPORATION, A MUTUAL LEGAL  
RESERVE COMPANY,

*Plaintiff,*

vs.

HALOMD, LLC, ALLA LAROQUE, and  
SCOTT LAROQUE,

*Defendants.*

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Case No. 5:25-cv-00132

**PLAINTIFF'S RESPONSE IN OPPOSITION TO  
DEFENDANTS' MOTION TO STAY DISCOVERY**

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## INTRODUCTION

Defendants’ request to stay discovery pending resolution of their motion to dismiss should be denied. Defendants fail to show the requisite good cause to warrant a departure from the Court’s ordinary practice of requiring discovery to proceed in parallel to a motion to dismiss. To start, Defendants fail to demonstrate that their motion to dismiss is so “clearly meritorious” as to warrant a stay of discovery. Indeed, Defendants ignore numerous weak points in their motion to dismiss. BCBSTX’s claims are likely to survive, and discovery should proceed now.

Moreover, Defendants have not demonstrated any actual undue burden or hardship, instead presenting misleading statistics that ignore how discovery will actually play out. Beyond that, Defendants raise only standard discovery processes, such as exchanging confidential information and reviewing materials for attorney-client privilege.

Finally, Defendants’ assertion that BCBSTX will experience “meager” or “non-existent” harm as a result of the stay ignores that Defendants’ scheme—and the resulting harm to BCBSTX—is *ongoing* and BCBSTX has sought injunctive relief. For all of these reasons, Defendants’ motion should be denied.

## ARGUMENT

Staying discovery pending a motion to dismiss “is the exception rather than the rule.” *Glazer’s Wholesale Drug Co., Inc. v. Klein Foods, Inc.*, No. 08-cv-0774, 2008 WL 2930482, at \*1 (N.D. Tex. July 23, 2008). “[H]ad the Federal Rules contemplated that a motion to dismiss under Fed. R. Civ. P. 12(b)(6) would stay discovery, the Rules would contain a provision to that effect.” *Id.* (quoting *Gray v. First Winthrop Corp.*, 133 F.R.D. 39, 40 (N.D. Cal. 1990)). For that reason, stays of discovery “in the context of a Rule 12(b)(6) motion to dismiss” are “very rare.” *Fernandez v. La. Dep’t of Child. & Fam. Servs.*, No. 24-cv-289, 2025 WL 692357, at \*2 (M.D.

La. Mar. 4, 2025). The burden is on Defendants to show its necessity. *Id.*; *see* Fed. R. Civ. P. 26(c)(1).

In determining whether such an exception applies, courts consider a variety of factors, including “(1) the breadth of discovery sought; (2) the burden of responding to such discovery; and (3) the strength of the dispositive motion filed by the party seeking a stay.” *Valenzuela v. Crest-Mex Corp.*, No. 3:16-CV-1129-D, 2017 WL 2778104, at \*5 (N.D. Tex. June 26, 2017). In addition, courts consider the potential “harm caused by the delay in discovery.” *Clay v. Wagner*, No. 18-cv-360, 2018 WL 10810007, at \*1 (W.D. Tex. Oct. 9, 2018). In considering the strength of the dispositive motion, courts typically only conduct a “‘cursory review’ of the dispositive motion” to assess whether a stay is warranted. *X Corp. v. Media Matters for Am.*, No. 4:23-cv-01175, 2024 WL 1895255, at \*2 (N.D. Tex. Apr. 26, 2024).

Here, Defendants have failed to demonstrate that this “very rare” exception should apply. To the contrary, each of the factors supports denying the motion to stay discovery.

**I. The motion to dismiss is neither clearly meritorious nor truly case dispositive.**

Courts usually decline to stay an action “merely because defendant believes it will prevail on its motion to dismiss,” especially when the issues are not “clear cut.” *Glazer’s Wholesale Drug Co., Inc.*, 2008 WL 2930482, at \*1. Indeed, this point is illustrated by contrasting Defendants’ motion to dismiss with the Court’s holding in *Caroselli v. Serv. First Mortg. Co.*, No. 4:25-cv-00505-BD, 2025 WL 2161427, at \*2 (E.D. Tex. July 30, 2025), a case cited extensively by Defendants throughout their motion. *See* D.E. 31 at 3, 4, 5, 7. In *Caroselli*, the court evaluated a motion to dismiss a *pro se* plaintiff’s claims and readily found that “there is no support in the law” for the plaintiff’s single claim, “so the defendants’ motion to dismiss will likely be granted.” 2025 WL 2161427, at \*1.

Here, on the other hand—and despite dedicating more than half their opening brief to recasting their motion to dismiss—Defendants have not demonstrated that their motion to dismiss is “so clearly meritorious and truly case dispositive.” *Health Choice Grp., LLC v. Bayer Corp.*, No. 17-cv-126, 2018 WL 5728515, at \*3 (E.D. Tex. Apr. 25, 2018). Defendants raise more than twenty separate arguments in their motion to dismiss. If any one of them was such a “slam-dunk” or “so likely to be granted that it warrants the requested discovery stay,” it begs the question of why so many different arguments were raised. *Id.* (internal quotation marks and citation omitted).

BCBSTX’s opposition briefing lays out in detail why Defendants are not likely to prevail on their motion to dismiss. For example, Defendants’ standing argument is without merit. Traceability for purposes of standing is not a “stringent or inflexible standard.” *Est. of Parker, Parker v. Miss. Dep’t of Pub. Safety*, 140 F.4th 226, 236 (5th Cir. 2025). Article III standing can be found where there is an “indirect causal relationship,” where the defendant’s conduct was just “one of multiple contributing causes,” or even where the defendant’s actions are not “the very last step in the chain of causation.” *Id.* at 236–37; *Wieland v. U.S. Dep’t of Health & Hum. Servs.*, 793 F.3d 949, 954 (8th Cir. 2015) (quoting *Bennett v. Spear*, 520 U.S. 154, 168–69 (1997)). Here, the Complaint explains how the IDR Processes have many steps and requirements—nearly all of which hinge directly (and possibly solely) on the submissions made by HaloMD on behalf of a provider. The Complaint also lays out how BCBSTX was forced to rely on Defendants’ misrepresentations given those misrepresentations resulted in binding IDR awards. *In re Mounce*, 390 B.R. 233, 255 n.27 (Bankr. W.D. Tex. 2008) (finding reliance properly pled and explaining “if a bankruptcy court ordered a debtor to pay a creditor’s costs,

what choice would that debtor have?”). BCBSTX’s Complaint alleges more than enough to establish standing.

Moreover, certain of the defenses raised by Defendants in their motion to dismiss are not pure legal issues and generally not proper 12(b)(6) grounds, instead giving way to factual issues warranting discovery. For instance, while Defendants claim that the *Noerr-Pennington* doctrine is a case dispositive issue at the motion to dismiss stage, substantial case law confirms the opposite. *Wolf v. Cowgirl Tuff Co.*, No. 1:15-CV-1195, 2016 WL 4597638, at \*9 n.7 (W.D. Tex. Sept. 2, 2016); *see also Teso LT, UAB v. Luminati Networks Ltd.*, No. 2:20-CV-00073, 2020 WL 7364606, at \*7 (E.D. Tex. Dec. 15, 2020) (Noerr Pennington is “not grounds for 12(b)(6) dismissal”).

Defendants’ motion to dismiss is also not “truly case dispositive.” *Health Choice Grp.*, 2018 WL 5728515, at \*3. For example, Defendants focus extensively on the collateral attack doctrine, D.E. 31 at 4, but they fail to meaningfully address BCBSTX’s request for prospective relief, including injunctive relief against future misconduct. In their reply brief, they rely on *Texas Brine* to argue BCBSTX is not entitled to injunctive relief, but that case did not even address injunctive relief. *Texas Brine Co. L.L.C. v. Am. Arb. Ass’n Inc.*, 955 F.3d 482, 489 (5th Cir. 2020) (dismissing the plaintiff’s equitable claim that sought to “fully disgorge [defendants] of all amounts paid during the arbitration proceedings”). And Defendants’ assertion that such forward-looking relief would be a “direct attack[] on IDR awards,” D.E. 28 at 7, fails to explain how BCBSTX could attack awards that have yet to be made.

Separately, none of the arguments in Defendants’ motion to dismiss, *even if* accepted by the Court, could merit dismissal with prejudice. Instead, the case would move forward with BCBSTX simply repleading. *See Valenzuela*, 2017 WL 2778104, at \*5 (finding the likelihood of

repleading to “weigh[] heavily in favor of” denying the motion to stay discovery). Even assuming *arguendo* that the Court were to accept any of Defendants’ arguments, BCBSTX could amend its Complaint to cure any purported deficiencies without substantially changing the merits of its claims, and thus without substantially changing the scope of relevant discovery. *See United States v. Infilaw Corp.*, No. 16-cv-970, 2018 WL 889024, at \*4 (M.D. Fla. Feb. 14, 2018) (denying motion to stay discovery where “the Court [was] not persuaded that . . . [there was] an ‘immediate and clear possibility that’ the motion to dismiss [would] be granted, or that if it [was] granted, that Plaintiff [would] not be given leave to further amend her pleading”).

Because Defendants have not demonstrated that their motion to dismiss is “clear cut,” nor is the motion likely to dispose of this case in its entirety, the Court should deny Defendants’ motion to stay discovery. *Glazer’s Wholesale Drug Co.*, 2008 WL 2930482, at \*1. Contrary to Defendants’ assertion that such stays are “regularly” granted (D.E. 31 at 5), it is in fact an “extraordinary step” that courts “routinely decline” to exercise. *Fernandez*, 2025 WL 692357, at 1–2 & n.10; *see, e.g., Great Lakes Ins., S.E. v. Gray Grp. Invs.*, No. 20-cv-2795, 2021 WL 7708048, at \*10 (E.D. La. May 21, 2021) (“[Defendant’s] pending dispositive motion does not render discovery premature.”); *Valenzuela*, 2017 WL 2778104, at \*5 (“[A]lthough the motion to compel arbitration might, if granted, result in the complete dismissal of this case as pending in this Court, that possibility alone does not, considering all the other factors discussed above, justify taking the extraordinary step of staying discovery.”); *Ashford Inc. v. United Here.*, No. 15-cv-0262, 2015 WL 11121019, at \*3 (N.D. Tex. May 12, 2015) (denying discovery stay because “the Court has a general interest in efficiently managing its docket, an interest that is rarely served by staying discover[y] pending the outcome of an arguably meritorious dispositive motion”); *Glazer’s*, 2008 WL 2930482, at \*1 (“The court declines to stay discovery merely

because defendant believes it will prevail on its motion to dismiss.”); *United States. ex rel. Gonzalez v. Fresenius Med. Care N. Am.*, 571 F. Supp. 2d 766, 768 (W.D. Tex. 2008) (declining to stay discovery for pending motion to dismiss where the movant failed to show that “discovery would be oppressive, unduly burdensome, or expensive”).

## **II. Defendants have not demonstrated overbroad requests or an undue burden.**

Defendants have also not demonstrated that they are facing unduly broad discovery requests or will suffer unusual “hardship or inequity” without a stay. *Valenzuela*, 2017 WL 2778104, at \*5. Although Defendants assert that discovery may end up being “unnecessary” because “all claims could be dismissed in their entirety,” D.E. 31 at 6–7, “[a] stay is not permitted merely because [a party] believes it will prevail on its motion.” *Anand v. Hallmark Fin. Servs., Inc.*, No. 24-cv-3181, 2025 WL 3125919, at \*1 (N.D. Tex. Aug. 14, 2025) (internal quotation marks and citation omitted). Rather, Defendants must show that “how the burden of discovery here is *distinct* from the usual inconveniences and costs that are associated with discovery practice.” *Id.* (emphasis added). Defendants have failed to do so here.

Beyond that, BCBSTX has yet to even serve any discovery requests, much less ones that are overbroad or unduly burdensome. Likely given that fact, Defendants resort to conjecture that it would take them more than “1.89 million minutes” to gather medical records and comply with HIPPA for the 42,000 claims they calculate are at issue. D.E. 31-1 ¶ 6. But such estimate is purely speculative and there is simply no evidence that allowing discovery to proceed now will result in this amount of work. Defendants’ speculation also ignores that actual claim-specific data is generally requested and produced later in the discovery period in a case like this, with initial discovery focusing on more general topics, identification of knowledgeable witnesses, etc. Moreover, depending on the needs of the case, during the course of discovery parties may agree on measures to mitigate burdensome claims review, such as targeted claims draws or sampling,

where appropriate. *See, e.g., United States v. Fadul*, No. 11-cv-0385, 2013 WL 781614, at \*14 (D. Md. Feb. 28, 2013) (citing cases that have allowed statistical sampling in healthcare cases to calculate damages). While discussions about the eventual proper scope and method for claims discovery in this case are premature at this stage, Defendants simply cannot establish that the reasonably expected discovery that would occur while the motion to dismiss is pending will be unduly burdensome. *See Anand*, 2025 WL 3125919, at \*1.

Defendants also argue a stay should be granted in light of potential confidentiality and privilege issues. D.E. 31 at 6–7. These issues are routine in litigation and do not constitute the type of “unusual” or undue burden that justifies a stay of discovery. And although this case may implicate sensitive health care information, that circumstance is neither exceptional nor unmanageable; indeed, it is a common feature of healthcare litigation. The existence of potentially confidential or privileged material provides no basis to halt discovery, particularly where protective measures can, and regularly do, provide adequate safeguards while allowing the case to proceed. *See Glazer’s*, 2008 WL 2930482, at \*1 (“Nor is the court persuaded that discovery should be stayed because defendant objects to certain document requests. If plaintiffs wish to challenge objections asserted by defendant to written discovery, or defendant seeks a protective order on grounds other than a blanket stay of all discovery, the parties may file an appropriate motion with the court.”).

Defendants speculate that discovery will entail “gargantuan and burdensome efforts” but, again, no discovery request has been made and there is simply no evidence that allowing discovery to proceed now will result in any of the burden alleged.

**III. Defendants overlook the significant harm to BCBSTX should the litigation be delayed.**

Finally, Defendants overlook the harm that a stay will cause BCBSTX. Despite Defendants' assertion that a stay would result in "meager, if not non-existent" harm to BCBSTX, D.E. 31 at 7, a stay will undoubtedly "lengthen the litigation." *Infilaw Corp.*, 2018 WL 889024, at \*4. Defendants' scheme is ongoing—meaning any delay in this case will result in additional injury to BCBSTX, which thus far has exceeded over \$100 million. Moreover, the Court "has discretion to manage its docket" and allowing discovery to proceed "comports with the Court's obligation to ensure cases move at a diligent pace toward final resolution." *X Corp.*, 2024 WL 1895255, at \*6–8. "Any delays imposed by a stay would undermine speedy resolution." *Id.* at \*8; *see Fed. Nat'l Mortg. Ass'n v. K.O. Realty, Inc.*, No. 13-cv-2781, 2014 WL 12588308, at \*1 (N.D. Tex. Feb. 4, 2014) ("[S]taying discovery pending resolution of a motion to dismiss is not an efficient means of managing litigation because it unnecessarily prolongs the ultimate resolution of the parties' claims."). Again, undue delay is especially significant here given that BCBSTX is suffering ongoing injuries, and Defendants' motion fails to grapple with the ongoing nature of the allegations.

**CONCLUSION**

Defendants have failed to demonstrate that this case presents the "very rare" circumstance that warrants a stay of discovery. Far from "clear cut," Defendants have failed to establish the likelihood that they will completely succeed on the merits of their motion to dismiss or that their motion will be case dispositive. Most importantly, Defendants have failed to demonstrate undue hardship, which alone requires denial of this motion. And finally, Defendants overlook the ongoing nature of BCBSTX's injuries. Any stay in this case would unduly lengthen

litigation and result in additional harm to BCBSTX. Accordingly, Defendants' motion should be denied.

Dated: February 27, 2026

By: /s/ Jamie R. Kurtz

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