IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:25-cv-03530-RBJ

ACA INTERNATIONAL and FRESNO CREDIT BUREAU,

Plaintiffs,

vs.

ADMINISTRATOR OF THE UNIFORM CONSUMER CREDIT CODE, MARTHA FULFORD, in her official capacity,

Defendant.

DEFENDANT'S UNOPPOSED MOTION TO VACATE DEADLINE FOR SCHEDULING ORDER AND TO STAY DISCOVERY

Colorado Uniform Consumer Credit Code Administrator Martha Fulford ("the Administrator"), by and through the Colorado Attorney General's Office and undersigned counsel, hereby respectfully moves unopposed to (1) vacate the deadline of February 24, 2026, for the parties to submit a proposed scheduling order, [ECF No. 18], and (2) stay discovery in this matter pending the resolution of Defendant's anticipated motion to dismiss, [ECF No. 16].

Certificate of Conferral under D.C. COLO. LCivR 7.1

Undersigned counsel certifies that they conferred with Plaintiffs' counsel regarding the relief sought in this motion. Plaintiffs do not oppose this motion.

INTRODUCTION

Plaintiffs commenced this action on November 5, 2025, [ECF No. 1], and filed an Amended Complaint on January 9, 2026, [ECF No. 15]. Plaintiffs challenge three statutory provisions concerning consumer reporting of medical debt information, claiming that each is

preempted by federal law and violates the First Amendment. *Id.* Their claims challenge one provision of the Colorado Consumer Credit Reporting Act ("CCRA"), C.R.S. § 5-18-109(1)(f)(I), and two provisions of the Colorado Fair Debt Collection Practices Act ("CFDCPA"), *id.* § 5-16-105(3)(e)(I), 5-16-107(1)(r)(I).

On February 5, 2026, Defendant filed a letter outlining the grounds for her anticipated motion to dismiss the complaint in part. [ECF No. 16]. As described in the letter, Defendant intends to argue that this Court lacks jurisdiction over all of Plaintiffs' claims concerning the CCRA, because they are barred by Eleventh Amendment sovereign immunity and Plaintiffs lack standing to assert them. Additionally, Plaintiffs' First Amendment challenges to the CFDCPA provisions fail to state a claim upon which relief can be granted.

Plaintiffs filed a response to Defendant's letter on February 12, 2026. [ECF No. 19]. The court reviewed the letters and found that "they raise legal issues that potentially could be decided at the motion to dismiss stage." [ECF No. 20]. On February 18, 2026, this Court approved the parties' proposed briefing schedule for Defendant's motion to dismiss. [ECF No. 22]. Under that schedule, Defendant's motion will be filed by March 13, 2026; Plaintiffs' response will be filed by April 13, 2026; and Defendant's reply will be filed by May 4, 2026. [ECF No. 21].

ARGUMENT

Because resolution of the upcoming motion may dispose entirely of Plaintiffs' claims concerning the CCRA and result in the dismissal of Plaintiffs' First Amendment claims regarding the CFDCPA, a stay of discovery is warranted. If Defendant is successful in her motion, the issues before the Court and the matters remaining for discovery will be significantly streamlined. Further,

a stay of discovery is appropriate because Defendant's motion will raise threshold jurisdictional issues, including immunity from suit.

"The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). Courts in this District routinely grant stays where a pending motion raises jurisdictional and immunity defenses. *See Elec. Payment Sys., LLC v. Elec. Payment Sols. of Am., Inc.*, No. 14-cv-02624-WYD-MEH, 2015 WL 3940615, at *2 (D. Colo. June 25, 2015); *see also Griffith v. El Paso Cnty., Colorado*, No. 21-CV-00387-CMA-NRN, 2022 WL 20286303, at *2 (D. Colo. Nov. 2, 2022) (granting stays where a pending motion raised immunity defense because failure to grant stay "effectively [would] deprive [defendants of] the benefit of immunity and result in a risk of piecemeal discovery."). In particular, an assertion of sovereign immunity "weighs strongly in favor of a stay," *Ruiz Sosa v. United States*, No. 21-cv-02562-CMA-NYW, 2022 WL 375575 at *2 (D. Colo. Feb. 8, 2022), as "[i]mmunity provisions, whether qualified, absolute or pursuant to the Eleventh Amendment, are meant to free officials from the concerns of litigation, including avoidance of disruptive discovery." *Est. of Deweese v. Hancock*, No. 24-cv-00960-DDD-NRN, 2024 WL 4333366, at *3 (D. Colo. Sept. 27, 2024).[1]

[1] Some courts treat the invocation of an immunity defense as sufficient to warrant a stay even without a *String Cheese* analysis. *See, e.g., Ruiz Sosa*, 2022 WL 375575 at *2 ; *Lucero v. City of Aurora*, No. 23-cv-00851-GPG-SBP, 2023 WL 5957126, at *6 (D. Colo. Sept. 13, 2023); *see also Liverman v. Comm. on the Judiciary*, 51 F. App'x 825, 827 (10th Cir. 2002) (noting that where immunity defense is raised, "until the threshold immunity question is resolved, discovery should not be allowed" (quotation omitted)). Here, because the *String Cheese* factors favor a stay, this Court need not address whether Defendant's invocation of sovereign immunity independently warrants a stay.

This Court considers five factors in ruling on a motion to stay discovery:

(1) Plaintiffs' interest in proceeding expeditiously and potential prejudice from delay;

(2) the burden on Defendant;

(3) the convenience to the Court;

(4) the interests of nonparties; and

(5) the public interest.

String Cheese Incident, LLC v. Stylus Shows, Inc., No. 05-cv-01934-LTB-PA, 2006 WL 894955, at *2 (D. Colo. Mar. 30, 2006). Here, the totality of these factors weigh in favor of staying discovery.

First, Plaintiffs will not suffer prejudice from a stay; they do not oppose this motion. *See Colo. Spgs. Fellowship Church v. Williams*, No. 19-cv-02024-WJM-KMT, 2020 WL 6487420, at *2 (D. Colo. Nov. 3, 2020).

Second, the burden on Defendant would be substantial if discovery proceeds while jurisdictional and immunity defenses are pending. Eleventh Amendment immunity "confers total immunity from suit, not merely a defense to liability," and is intended to shield officials from the burdens of litigation, including discovery. *Ambus v. Granite Bd. of Educ*., 995 F.2d 992, 994 (10th Cir. 1993); *Ashcroft v. Iqbal*, 556 U.S. 662, 685 (2009) (the "basic thrust" of the immunity doctrine is to "free officials from the concerns of litigation, including 'avoidance of disruptive discovery.'"). Defendant's motion to dismiss will assert that all of Plaintiffs' claims concerning the CCRA are barred by sovereign immunity. Accordingly, allowing discovery to proceed with respect to the CCRA would burden Defendant with discovery from which she should be shielded by the Eleventh Amendment. Moreover, Defendant's sovereign immunity defense warrants a

complete stay of discovery, including with respect to those claims for which Defendant does not assert an immunity defense. Piecemeal discovery would be inefficient for the Court and the parties, and Plaintiffs have not identified any prejudice they would suffer from a complete stay. *See Benton v. Town of South Fork*, No. 12-cv-00336-CMA-KMT, 2012 WL 4097715, at *5–*6 (D. Colo. Sept. 18, 2012) (defenses of qualified and sovereign immunity warranted stay of all discovery, even with respect to municipal defendants, to avoid prejudice of piecemeal discovery).

Third, staying discovery promotes judicial economy and convenience to the Court. It avoids unnecessary disputes, and removes scheduling and discovery issues that take time away from the Court while it resolves threshold issues. *See Hoang v. O'Rourke*, No. 18-cv-1755-RM-KLM, 2018 WL 11372178, at *2 (D. Colo. Dec. 17, 2018). If Defendant's motion is granted, it will dispose entirely of Plaintiffs' claims regarding the CCRA and eliminate Plaintiffs' First Amendment challenges to the CFDCPA. As a result, any remaining discovery and motion practice before the Court will be significantly streamlined. *Cf. Makeen Inv. Grp., LLC v. Vallejos*, No. 17-cv-02579-RM-STV, 2018 WL 704383, at *3 (D. Colo. Feb. 5, 2018) (finding that "interests of judicial economy weigh in favor of granting the stay" where the case was in its early stages and the pending motion to dismiss might dispose of all claims against certain defendants).

Fourth, Defendant is not aware of any interests of nonparties that would be negatively impacted by the requested stay.

Fifth, the public interest favors a stay because it conserves judicial resources and taxpayer funds by avoiding unnecessary litigation costs for a state official performing public duties.

CONCLUSION

Because all five factors weigh in favor of a stay, Defendant respectfully requests that this Court enter an order vacating the current deadline to submit a proposed scheduling order and staying discovery pending resolution of Defendant's Motion to Dismiss.

DATED this 24th day of February, 2026.

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