UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Roanoke Division

ANTHEM HEALTH PLANS OF VIRGINIA, INC. D/B/A ANTHEM BLUE CROSS AND BLUE SHIELD and HEALTHKEEPERS, INC.,

Plaintiff,

v.

AGS HEALTH, INC., THE SCHUMACHER GROUP OF LOUISIANA, INC. D/B/A SCP HEALTH, THE SCHUMACHER GROUP OF VIRGINIA, INC.; INGLESIDE EMERGENCY GROUP, LLC, KINGSFORD EMERGENCY GROUP, LLC, LAKE SPRING EMERGENCY GROUP, LLC, WESTERN VIRGINIA REGIONAL EMERGENCY PHYSICIANS, LLC, and WILDWOOD EMERGENCY GROUP, LLC,

Defendants.

7:25-cv-00804-RSB-JCH

District Judge: Robert S. Ballou
Magistrate Judge: Joel C. Hoppe

PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION TO STAY DISCOVERY PENDING RESOLUTION OF DEFENDANTS' RULE 12(b)(1) AND 12(b)(6) MOTIONS TO DISMISS

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INTRODUCTION

While this litigation remains pending, Defendants[1] continue to submit fraudulent disputes against Anthem[2] through the independent dispute resolution ("IDR") process created by the federal No Surprises Act ("NSA"). Defendants' ongoing "NSA Scheme" has already caused Anthem millions of dollars in damages (*see* Complaint ("Compl."), ECF No. 1, ¶¶ 2, 110, 130), and it will continue to inflict substantial additional damages unless and until this Court holds Defendants accountable for their misconduct.

Courts disfavor discovery stays, and Defendants fail to meet the high standard for one here. A stay would hinder—not serve—judicial economy. Defendants identify no meaningful hardship in the absence of a discovery stay. Instead, they merely complain of routine litigation obligations and burdens arising from their own misconduct. Conversely, a stay would substantially prejudice Anthem by prolonging an ongoing and mounting injury. Granting Defendants' motion to stay discovery pending resolution of their motions to dismiss ("Motion" or "Mot." at ECF No. 59) would allow them to continue their NSA Scheme, delay accountability for their actions, and avoid disclosing material evidence of their fraudulent conspiracy. The Court should deny the Motion so the parties can proceed to discovery following their April 17, 2026, Rule 26(f) conference.

LEGAL STANDARD

"Motions to stay discovery are 'generally disfavored because delaying discovery may cause case management problems as the case progresses.'" *Zinski v. Liberty Univ., Inc.,* 761 F. Supp. 3d 916, 919 (W.D. Va. 2025) (internal quotation omitted). To secure a stay, movants

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[1] "Defendants" include (i) AGS Health, Inc.; (ii) The Schumacher Group of Louisiana Inc. and The Schumacher Group of Virginia, Inc.; and (iii) Ingleside Emergency Group, LLC, Kingsford Emergency Group, LLC; Lake Spring Emergency Group, LLC; Western Virginia Regional Emergency Physicians, LLC; and Wildwood Emergency Group, LLC.

[2] "Anthem" is Anthem Health Plans of Virginia, Inc. and HealthKeepers, Inc.

bear the burden of establishing the "high standard" of good cause per Rule 26(c) with "particular and specific facts demonstrating why a stay should issue." *Id.* (citation and internal quotes omitted).

In assessing a motion to stay discovery, courts are guided by three core considerations: "(1) the interests of judicial economy; (2) the hardship and equity to the moving party in the absence of a stay, and (3) the potential prejudice to the non-moving party in the event of a stay." *BAE Sys. Ordnance Sys. Inc.,* 2021 WL 6134685, at *1 (W.D. Va. Dec. 29, 2021) (citation omitted). Courts may also consider other factors, such as "the nature of the pending motion to dismiss, [] whether discovery is necessary to adjudicate the pending motion to dismiss, [] the nature and complexity of the action, [] the expected extent of discovery, and [] the current posture of the litigation." *Zinski,* 761 F. Supp. 3d at 919.

ARGUMENT

Defendants fail to meet the "high standard" of establishing good cause for a discovery stay. *See Zinski*, 761 F. Supp. 3d at 919. Judicial economy is best served by proceeding with discovery, not staying it indefinitely while the Court considers Defendants' voluminous motions to dismiss. Defendants identify no meaningful hardship in the absence of a stay. Conversely, Anthem continues to suffer concrete, ongoing financial harm with each passing day that Defendants' fraudulent NSA Scheme proceeds unchecked. And the remaining issues Defendants raise do not support a stay. As set forth more fully below, the relevant factors weigh decisively against a stay of discovery.

I. JUDICIAL ECONOMY FAVORS DENYING A STAY OF DISCOVERY.

Defendants fail to establish that judicial economy is served by staying discovery. "[S]taying discovery for an indefinite period causes case management problems down the road, which frustrates the court's management of its docket." *Zinski*, 761 F. Supp. 3d at 919. Staying

discovery is particularly inappropriate here because, as Defendants acknowledge, this case involves significant claims and data collection that will only further delay the case if a stay is issued. *See* Mot. at 9-10; *e.g., BAE Sys. Ordnance Sys. Inc.,* 2021 WL 6134685, at *1 (denying motion to stay discovery where "[t]he parties have asserted significant contract claims against one another which will require extensive discovery"). For the same reason, "delaying discovery may [also] create potential spoliation issues, as witnesses' recollections could fade and documents could be lost in the meantime." *See, e.g.*, *Zinski,* 761 F. Supp. 3d at 919. Judicial economy is best served by proceeding with discovery, which would allow the parties to narrow the issues in dispute, identify relevant custodians and document sources, establish protocols for handling sensitive information, and ensure a prompt and efficient resolution of the case.

II. DEFENDANTS FAIL TO SHOW MEANINGFUL HARDSHIP IN THE ABSENCE OF A STAY.

Defendants have not identified hardship or inequity in the absence of a stay. *See Zinski*, 761 F. Supp. 3d at 919. Defendants make only conclusory arguments about the volume of anticipated discovery, the need for protected health information ("PHI") and Health Insurance Portability and Accountability Act ("HIPAA")-compliant production procedures, and the number of potential custodians. Mot. at 11. Each of these asserted hardships is either a routine incident of litigation or a self-inflicted consequence of Defendants' own misconduct.

A. The Volume of Discovery Does Not Support a Discovery Stay.

The expected volume of discovery does not support a stay for many reasons. First, because Defendants' fraud is ongoing, the amount of discoverable information will only increase with time. A stay would not alleviate any attendant hardship; it would only delay and compound it. Moreover, the volume of discovery is not some externally-derived burden thrust upon Defendants; it is a direct consequence of the scale of Defendants' own misconduct. As alleged in the Complaint, from January 2024 through November 2025, Defendants submitted over 27,000 IDR disputes against

Anthem, nearly 60% of which were ineligible for the IDR process. *See* Compl. at ¶¶ 5, 10, 383. Defendants should not be permitted to invoke the magnitude of their own wrongdoing as a shield against discovery, which would reward the very conduct this action seeks to redress.

Second, Defendants have not identified any hardship unique to this case or disproportionate to the stakes involved. Defendants have not submitted any cost estimate, affidavit, or other support for their conclusory argument that discovery would be burdensome. Such generic arguments regarding the volume of discovery apply in virtually any case and do not constitute grounds for staying discovery pending the resolution of dispositive motions. *See, e.g., Hoxie v. Livingston Cnty.*, No. 09-CV-10725, 2010 WL 822401, *1 (E.D. Mich. Mar. 4, 2010) ("The wheels of justice would surely grind to a halt if discovery were stayed pending dispositive motions and based on such generic allegations of undue burden and expens[e]."); *Standard Bank PLC v. Vero Ins. Ltd.*, No. 08-cv-02127-PAB-BNB, 2009 WL 82494, at *2 (D. Colo. Jan. 13, 2009) ("Parties always are burdened when they engage in litigation . . . That is a consequence of our judicial system and the rules of civil procedure.").[3] Defendants also ignore that the Federal Rules of Civil Procedure already contain mechanisms to address and avoid disproportionately burdensome discovery. *See* Fed. R. Civ. P. 26(b)(1). Defendants' remedy for any legitimate volume-related concerns is to invoke that provision during the discovery process, not to shut discovery down before it begins.[4]

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[3] Defendants also conflate volume with complexity. Much of the discovery is likely to be structurally repetitive—the same categories of documents Defendants should already possess in organized and accessible form (*e.g.*, IDR submissions, attestations, eligibility determinations). High volume does not equate to undue burden, and modern e-discovery tools are well suited to managing large but structurally similar document sets.

[4] Moreover, any concerns over the scope of discovery can be remedied through a phased discovery plan rather than a blanket stay. For example, the parties could begin with core custodians and document categories, allowing meaningful progress without imposing the full burden Defendants seek to avoid.

Third, Defendants' volume argument ignores the fundamental asymmetry of information in this case. Much of the critical evidence—including system logs, internal communications, policies and protocols (including regarding eligibility), and the configurations of the robotic process automation and artificial intelligence tools Defendants used to carry out their scheme—is in Defendants' exclusive possession. *See* Compl. at ¶¶112, 123, 156. Delay disproportionately prejudices Anthem, which lacks access to this evidence, while benefiting Defendants. And given the nature of this data, which includes transient electronic records generated by Defendants' automated systems, a stay poses greater risk that some of it will be lost, overwritten, or degraded. All of these reasons weigh heavily against a stay. *See, e.g.*, *Zinski,* 761 F. Supp. 3d at 919.

B. The Presence of PHI Does Not Represent a Hardship for Defendants.

That discovery will involve PHI does not represent a hardship to Defendants. As participants in the healthcare industry, all parties and their counsel are well accustomed to PHI protocols and HIPAA-compliant procedures. Indeed, a core part of Defendants' businesses entail communicating PHI and HIPAA protected materials to third parties. To the extent Defendants have legitimate concerns regarding the handling of sensitive information, the appropriate remedy is a protective order, not a blanket stay. Defendants' election to seek a stay rather than propose such targeted measures underscores that their true objective is delay, not data protection.

C. The Claimed Number of Custodians Does Not Support a Stay.

Lastly, the need to coordinate among multiple document custodians does not support a stay. The relevant custodians are employed by Defendants, the perpetrators of the NSA Scheme, and the documents at issue are their own business records. Given the pendency of this litigation and the duty to preserve potentially discoverable information, Defendants should already be coordinating with relevant custodians to ensure preservation. *See, e.g., Bhattacharya v. Murray*, 2022 WL 1510550, at *4 (W.D. Va. May 12, 2022) (explaining generally when duty to preserve

is triggered). That coordination is not a hardship attributable to the commencement of discovery; it is an obligation that exists irrespective of whether discovery is stayed.

III. Anthem Will Incur Substantial Prejudice if the Case Is Stayed.

In contrast to the absence of meaningful hardship to Defendants, Anthem would be severely prejudiced by a stay. Defendants' fraudulent NSA Scheme is ongoing and continues to cause significant financial harm to Anthem. *See* Compl. at ¶¶ 137, 383. A stay premised on the sheer number of disputes at issue would effectively reward Defendants for the very misconduct Anthem challenges: submitting massive volumes of ineligible disputes to overwhelm Anthem and the IDR process. *See id.* at ¶¶ 3, 5, 112. Staying discovery would allow Defendants' harmful conduct to continue unchecked while Anthem moves no closer to resolution of its claims. *See, e.g.*, *Gibbs v. Plain Green, LLC*, 331 F. Supp. 3d 518, 528 (E.D. Va. 2018) (denying motion to stay, and explaining that "plaintiff's plausible allegations of ongoing harm can weigh against granting a stay because of the potential for prejudice in such a circumstance").

The ongoing nature of Defendants' conduct prejudices not only Anthem, but also inflates healthcare costs that are ultimately borne by consumers. *See id.* at ¶¶ 106, 140. Any delay while Defendants' conduct continues unabated compounds those harms. This is especially significant given Anthem's request for permanent injunctive relief. Prompt discovery is essential to develop the evidentiary record necessary to halt the ongoing harm caused by Defendants' scheme.

The risk of evidence spoliation further prejudices Anthem. *See, e.g., Zinski,* 761 F. Supp. 3d at 919 (agreeing "that delaying discovery may create potential spoliation issues, as witnesses' recollections could fade and documents could be lost in the meantime"). As alleged in the Complaint, Defendants employ robotic process automation and artificial intelligence to carry out their scheme. Compl. at ¶¶ 112, 123, 156. And much of the critical evidence is solely in Defendants' possession. *See supra* at 4-5; *e.g.*, *id.* at ¶¶ 72, 137, 146, 155-157, 327. Delaying

discovery creates a substantial risk that relevant data, system logs, and transient electronic records generated by Defendants' "robotic" automated processes will be lost, overwritten, or otherwise rendered unavailable. *Id.* at ¶ 156.

The scale and scope of Defendants' fraudulent NSA Scheme, the ongoing nature of the harm to Anthem and American consumers, and the risk of spoliation of critical evidence solely in Defendants' possession are substantially more prejudicial than any alleged hardship to Defendants. Accordingly, the Court should deny Defendants' Motion.

IV. DEFENDANTS' REMAINING ARGUMENTS DO NOT SUPPORT A STAY.

While not necessary to evaluate as part of Defendants' Motion, *see BAE Sys. Ordnance Sys. Inc.,* 2021 WL 6134685, at *1, Defendants' remaining arguments do not support a stay. Defendants' motions to dismiss do not rest on a single, threshold legal argument capable of disposing of all claims. The complexity and scale of this case make prompt commencement of discovery all the more urgent. And the lack of counterclaims and stage of litigation are immaterial.

A. Defendants' Motions Do Not Raise a Singular Threshold Legal Argument Applicable to All Claims.

In some cases, courts may be more inclined to stay discovery where defendants raise a threshold and "purely legal argument" for dismissal of *all claims*. *See, e.g., Rhett v. Rehak*, Docket No. 7:25-cv-00911, ECF No. 27 (W.D. Va. Jan. 14, 2026) (Ballou, J.) (addressing motion to dismiss based on "absolute immunity"); *Oakley v. Coast Pro, Inc.*, 2021 WL 3520539, at *2 (S.D.W. Va. Aug. 10, 2021)(addressing motion based on, among other grounds, personal jurisdiction); *Cleveland Const., Inc. v. Schenkel & Schultz Architects, P.A.*, No. 3:08-CV-

407RJCDCK, 2009 WL 903564, at *3 (W.D.N.C. Mar. 31, 2009) (motion to dismiss based on res judicata applicable to all claims).[5] That is not the case here.

Defendants seek to paper over this fact by directing the Court's attention to legal arguments seeking dismissal of *most* claims based on: (1) the NSA's judicial review provision, (2) the *Noerr-Pennington* doctrine, and (3) issue preclusion. Mot. at 3-7 (citing ECF No. 38, at 3-6, 12-18, 27-31; ECF No. 41, at 15-20, 28-32). All of these arguments fail for the reasons explained in Anthem's Opposition to the motions to dismiss. (ECF No. 51, at 15-18 and 23-36).

In any event, none of these arguments apply to Anthem's alternative claim for vacatur of IDR awards under Count IX, which Defendants' Motion does not even mention. With respect to the alternative vacatur claim, Defendants have sought dismissal based *solely* on the sufficiency of the allegations. *See* AGS MTD (ECF No. 38) at 31 ("Anthem Has Not Plausibly Alleged a Claim to Vacate the IDR Awards . . ."); SCP MTD (ECF No. 41) at 1 ("Anthem has not sufficiently pled any of the narrow, cognizable grounds for vacatur."). As reflected in Defendants' own cited case law, where a defendant premises a motion to dismiss on the "'sufficiency' of the allegations" rather than a purely legal argument, this weighs against a stay. Mot. at 3 (quoting *Oakley*, 2021 WL 3520539).

B. The Complexity of the Case Weighs against a Stay

Courts may find that "the absence of a complex web of factual issues to untangle makes discovery less urgent." *Oakley*, 2021 WL 3520539, at *3 (cited by Defendants). Here, the complex web among Defendants and the scale and scope of their alleged fraudulent scheme make

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[5] *See also Rowe v. Citibank N.A.*, No. CIV.A. 5:13-21369, 2015 WL 1781559, at *1 (S.D.W. Va. Apr. 17, 2015) ("defendant filed a motion for judgment on the pleadings, arguing that the mortgage documents signed by the parties demonstrate that plaintiffs do not have a legal claim"); *Sheehan v. United States*, No. 5:11CV170, 2012 WL 1142709, at *2 (N.D.W. Va. Apr. 4, 2012) ("lack of subject matter jurisdiction and sovereign immunity"); *Taylor v. Sethmar Transportation, Inc.*, No. 2:19-CV-00770, 2020 WL 1181531, at *5 (S.D.W. Va. Mar. 11, 2020) ("personal jurisdiction and service of process.").

prompt commencement of discovery all the more urgent. A multi-party fraud case involving coordinated conduct across multiple entities requires early identification of custodians, establishment of document collection and production protocols, and coordination on discovery sequencing. These tasks take time and cannot begin until discovery commences. Under the circumstances of this case, complexity weighs against a stay.

C. The Lack of Counterclaims and Joinder of All Defendants Are Immaterial

According to Defendants, where the parties are already embarking on discovery into counterclaims or defendants who are not encompassed with a motion to stay discovery, this may be independent grounds for denying a motion to partially stay discovery. Mot. at 8. But the absence of counterclaims and the joinder of all defendants in a motion to stay discovery are accorded no meaningful weight. Here, these factors are especially immaterial. Defendants seek to stay discovery pending resolution of a *pre-answer* motion to dismiss. And it is hardly surprising that all participants in a coordinated fraudulent scheme would join in a motion to delay discovery, as they share a common interest in avoiding accountability for their unlawful conduct.

D. The Stage of Litigation Is Immaterial

Defendants note that this case is in its early stages. Mot. at 8. But every case begins at an early stage. If that alone warranted a stay, discovery would be stayed as a matter of course whenever a motion to dismiss is filed, which is plainly at odds with the general disfavor of such stays. *See, e.g. Zinski*, 761 F. Supp. 3d at 919. The relevant inquiry is not where the case stands procedurally, but what would be lost by delay. Here, the answer is clear: a great deal.

Courts that treat the early stage of litigation as favoring a stay typically reason that the non-movant has invested little in discovery and therefore suffers minimal prejudice from delay. *See NAS Nalle Automation Sys. LLC v. DJS Sys. Inc.*, 2016 WL 7209807, at *2 (S.D.S.C. Aug. 8, 2016) (granting stay where "very little written discovery has been conducted; no depositions have been

taken”). But that reasoning measures prejudice solely by sunk costs in a case involving past harms, which does not apply here. The prejudice Anthem faces is a function of the ongoing harm it continues to suffer with each passing day that Defendants’ fraud goes unaddressed. Defendants’ fraudulent conduct is not a discrete event in the past. *Gibbs*, 331 F. Supp. 3d at 528.

Because this case is in its early stages, Anthem has had no opportunity to obtain discovery in support of its request for injunctive relief to halt this continuing harm. Far from reducing the prejudice of a stay, the early stage of this case magnifies it. The Federal Rules reinforce this conclusion. Rule 26(f) requires the parties to confer regarding a discovery plan “as soon as practicable,” and Rule 16(b) presupposes that discovery will commence promptly—not that it will be deferred until all threshold motions are resolved. A stay at this juncture would contravene that framework, ensuring that once the motions to dismiss are resolved, the Parties will have made no progress toward resolving any surviving claims.

CONCLUSION

For the foregoing reasons, Anthem respectfully requests that the Court deny Defendants’ Motion in its entirety. The balance of factors weighs decisively against a stay. Defendants’ alleged fraud is ongoing, Anthem continues to suffer harm with each passing day, and delay would compound that prejudice while increasing the risk of evidence spoliation. The Court should deny the Motion and permit discovery to proceed.

Dated: April 21, 2026

Respectfully Submitted,

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<u>CERTIFICATE OF SERVICE</u>

I, Jason T. Mayer, hereby certify that on April 21, 2026, I filed a copy of the foregoing document with the Court's CM/ECF system, which will send an electronic notification to all counsel of record.

/s/ Jason T. Mayer