

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

HEALTH CARE SERVICE CORPORATION,
A MUTUAL LEGAL RESERVE COMPANY,

Plaintiff,

vs.

NEUROMONITORING ASSOCIATES, LLC,
PHYSICIAN OVERSIGHT, LLC, and
MONITORING ASSOCIATES LLC,

Defendants.

Case No. 5:26-cv-00022-RWS-JBB

**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 misrepresent and overstate the holdings of recent case law, improperly attempt to shift the burden to HCSC to prove discovery is necessary, and generally 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.

Defendants fail to demonstrate that their motion to dismiss is “case dispositive” and so “clearly meritorious” as to warrant a stay of discovery, as to either HCSC’s fraud or kickback claims. Moreover, Defendants have not demonstrated any actual undue burden or hardship, instead raising only standard discovery processes, such as exchanging confidential information and reviewing materials for attorney-client privilege. Finally, Defendants’ assertion that HCSC will experience “meager harm” as a result of the stay ignores that Defendants’ scheme—and the resulting harm to HCSC—is *ongoing* and that HCSC 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.” *Butowsky v. Folkenflik*, No. 18-cv-442, 2019 WL 6701629, at *3 (E.D. Tex. Jan. 9, 2019) (citation omitted). “[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.* (internal quotation marks and citation omitted). 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).

Contrary to Defendants’ argument, the burden is on Defendants to show a stay is warranted. *Id.* To that end, Defendants incorrectly contend that HCSC bears the burden of demonstrating the need for discovery. D.E. 32 at 5. Not so. “The burden is upon the movant to show the necessity of [a stay of discovery].” *Am. Registry of Radiologic Technologists v. Bennett*, No. 09-cv-767, 2010 WL 596340, at *1 (W.D. Tex. Feb. 16, 2010) (quoting *United States v. Garrett*, 571 F.2d 1323, 1326 n.3 (5th Cir. 1978)); *see also Health Choice Grp. v. Bayer Corp.*, No. 17-cv-126, 2018 WL 5728515, at *2 (E.D. Tex. Apr. 25, 2018) (“An order staying discovery should only be issued upon a showing of ‘good cause’ by the movant.”).

Defendants rely on *Davila v. United States*, 713 F.3d 248 (5th Cir. 2013), to argue that “[w]here a defendant challenges subject-matter jurisdiction,” the burden shifts to the plaintiff to demonstrate the necessity of discovery. *Davila* says no such thing. There, the plaintiffs sought “limited [**jurisdictional**] discovery,” and the Fifth Circuit held that the plaintiffs—as the parties requesting that limited jurisdictional discovery—bore the burden of showing its necessity. *Id.* at 263–64. That is not the situation here. HCSC is not the movant and is not seeking jurisdictional discovery. Rather, Defendants are seeking a protective order staying discovery.

Accordingly, Defendants bear the burden of demonstrating good cause for that extraordinary relief. Indeed, Defendants’ own cited cases confirm as much, even in cases involving jurisdictional challenges. *See* D.E. 32 at 4; *Conquest v. Camber Corp.*, No. 5:13-cv-1108, 2014 WL 172500, at *1 (W.D. Tex. Jan. 13, 2014) (“Defendant has met its ‘good cause’ burden.”); *Laufer v. Patel*, No. 20-cv-631, 2021 WL 327704, at *1 (W.D. Tex. Feb. 1, 2021) (“Under Rule 26(c)’s ‘good cause’ requirement, the party seeking a protective order has the burden ‘to show the necessity of its issuance.’” (citation omitted)).

In determining whether the moving party has met its burden and that such exceptional relief is warranted, 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. Defendants’ Motion to Dismiss is Neither Clearly Meritorious Nor Truly Case Dispositive.

Defendants have failed to show that their motion to dismiss is either “truly case dispositive” or “so clearly meritorious.” *Health Choice Grp.*, 2018 WL 5728515, at *3. *First*, Defendants’ motion is not case dispositive. Defendants spend pages arguing that a stay is warranted because “Defendants seek dismissal based on the Court’s lack of subject-matter jurisdiction.” D.E. 32 at 3–4, 7–9. But at best, this argument relates only to *a portion* of HCSC’s claims. Thus, even if the Court accepts these jurisdictional arguments (which it should not), HCSC’s kickback claims will still proceed through discovery. Although Defendants cite cases where courts have stayed discovery due to pending jurisdictional challenges, they have generally only done so when, unlike here, the *entire* case could be dismissed for lack of jurisdiction. *See Conquest*, 2014 WL 172500, at *1 (finding good cause to stay discovery where the defendant’s

jurisdictional arguments touched all of the plaintiff's claims); *Laufer*, 2021 WL 327704, at *1–2 (staying discovery where the defendant challenged the plaintiff's "standing to bring this case").

Second, Defendants have not demonstrated that their motion to dismiss is "so clearly meritorious" as to warrant a stay. *Health Choice Grp.*, 2018 WL 5728515, at *3. With respect to HCSC's kickback claims, Defendants argue that HCSC has not identified "with specificity facts or statements that show fraud." D.E. 32 at 10. But HCSC pleads detailed factual allegations demonstrating the existence of an unlawful kickback arrangement, including Defendants' acquisition of surgeon-owned LLCs, abrupt shifts in referral practices following those arrangements, and representative claims submitted to HCSC that are believed to be tainted by kickbacks. D.E. 3 ("Compl.") ¶¶ 47–109. This shows a kickback—remuneration paid in exchange for referrals—which violates Texas law and HCSC's policies. *See* Texas Occupations Code § 102.001; Texas Penal Code § 32.43; *see also United States ex rel. Parikh v. Citizens Med. Ctr.*, 977 F. Supp. 2d 654, 670–71 (S.D. Tex. 2013) (finding a kickback scheme adequately alleged, particularly when the defendant's actions "would make little apparent economic sense . . . unless they were doing so for some ulterior motive" like to "induce referrals").

Nor does the Complaint's use of allegations "upon information and belief" render the claims deficient, particularly where the underlying details about the entity purchases, referral payments, and financial arrangements are uniquely within Defendants' possession. *See Hernandez v. CIVA-GEIGY Corp. USA*, No. 00-cv-82, 2000 WL 33187524, at *5 (S.D. Tex. Oct. 17, 2000) ("[T]he plaintiff may plead fraud upon information and belief if the facts required to satisfy Rule 9(b) are within the defendants knowledge and control, and the plaintiff can provide adequate support for his or her allegations"). The Complaint provides factual support for those allegations, including specific surgeons, entities, dates, referral patterns, and claim examples.

At a minimum, Defendants ignore that any pleading deficiency could be cured by 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). Thus, even assuming *arguendo* that the Court were to accept Defendants’ arguments, HCSC could amend its Complaint to cure any purported deficiencies as to its kickback claims. *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”).

Defendants’ arguments related to HCSC’s NSA claims fair no better. Defendants rely on three unpublished, out-of-circuit cases and attempt to portray those decisions as establishing some settled nationwide consensus. They do not. Moreover, Defendants allege that those out-of-circuit decisions addressed the claims and facts at issue in *this* case. They did not. None of those decisions are binding on this Court, all are readily distinguishable, and at least two are currently on appeal.

As a primary matter, not one of the cases address the black letter law requiring that courts interpret statutory limits on judicial review narrowly and in favor of review, only declining judicial review based on clear and convincing evidence. *Reno v. Cath. Soc. Servs., Inc.*, 509 U.S. 43, 64 (1993) (The burden of foreclosing judicial review can be met only by “clear and convincing evidence”); *Texas v. United States*, 809 F.3d 134, 164 (5th Cir. 2015) (“[W]here substantial doubt about the congressional intent exists, the general presumption favoring judicial review of administrative action is controlling.” (quoting *Block v. Cmty. Nutrition Inst.*, 467 U.S. 340, 351 (1984))).

Nor do any of the three cases address or apply Fifth Circuit precedent, which makes clear that the relevant judicial review inquiry is whether the alleged injury flows solely from the award, or whether it also seeks redress for harm separate and apart from the impact on the arbitration award. *See Gulf Petro Trading Co., Inc. v. Nigerian Nat. Petroleum Corp.*, 512 F.3d 742, 751 & n.5 (5th Cir. 2008) (describing a potential permissible RICO claim, noting a plaintiff need only allege harm “independent of its effect on the arbitration award”); *id.* at 749 n.3 (citing *Mian v. Donaldson, Lufkin & Jenrette Securities Corp.*, 7 F.3d 1085, 1087 (2d Cir. 1993), which permitted suit for harm occurring during an arbitration proceeding where harm was independent of effect on award).

The three decisions also do not address HCSC’s allegations of forced reliance. *See, e.g.*, Compl. ¶¶ 151–52, 216–18, 244; *In re Mounce*, 390 B.R. 233, 255 & n.27 (Bankr. W.D. Tex. 2008) (finding reliance for purposes of RICO claim where a party was forced to rely on a court’s actions, noting “what [other] choice would [that party] have?”).

Here, HCSC alleges a coordinated scheme to submit tens of thousands of ineligible claims, reliance (including forced reliance), damages including administrative costs, settlements, and operational burdens *separate and apart* from any award amounts, and ongoing harm requiring prospective relief. As such, dismissal would be inappropriate. Further the kickbacks alleged by HCSC render the claims at issue not payable. This means that HCSC is seeking damages that include *the original amounts paid on the at-issue claims*, not solely damages based on the amounts awarded through the IDR process. Even more, there are claims at issue that were not submitted to the IDR process at all, but that are tainted by kickbacks. HCSC is seeking damages for those claims as well.

Then, turning to the specific cases themselves, the first case Defendants rely upon, *Anthem Blue Cross Life & Health Ins. Co. v. HaloMD LLC*, No. 25-cv-01467, 2026 WL 982629 (C.D. Cal. Apr. 9, 2026), is currently on appeal and rests on several flawed premises. To start, the California court incorrectly described as “novel” and “unsupported” the notion that a “payment determination” described by NSA § 300gg-111(c)(5)(A) refers only to payment, not eligibility. *Id.* at *9. This conclusion failed to acknowledge that reading a statutory provision as being limited to “Payment Determinations”—where the section of the statute is *explicitly titled* “**Payment Determinations**”—is black letter law on statutory interpretation. To that end, this Court is just as capable of interpreting the provisions at issue as any other court, and the California Magistrate Judge is not entitled to any deference.

Further, with respect to vacatur, the California Magistrate Judge relied heavily on Ninth Circuit precedent arising from materially different arbitration contexts to conclude that, because the plaintiffs objected to eligibility during the IDR proceedings, they could not later seek vacatur based on fraud. *Id.* at *7–8. That reasoning is unpersuasive for several reasons. *First*, the fact that HCSC could identify and challenge eligibility during the IDR process does not mean it could discover or prove that Defendants intentionally misrepresented facts to the IDREs. The IDR process provides no meaningful mechanism to investigate or litigate fraud. Indeed, HCSC does not even get to see Defendants’ submissions. And the cases on which *Anthem* relies involved arbitration proceedings with meaningful procedural safeguards—discovery, evidentiary development, hearings, and genuine opportunities to investigate and challenge allegedly false statements before the arbitrator. The NSA’s IDR process bears little resemblance to those proceedings—IDRs are not arbitrations as there is no contractual arbitration clause. Further, IDR is a highly compressed administrative mechanism built around provider sworn attestations

submitted through an online portal, with no discovery, no evidentiary hearing, no testimony, and no opportunity to view and rebut the opposing party's submissions. Thus, while payors like Anthem and HCSC can raise eligibility objections, they have no practical ability within the IDR process itself to investigate or litigate fraud.

To that end, the NSA does *not* require IDREs to evaluate a payor's eligibility objections before issuing payment determinations. IDREs are only required to consider the provider's submissions when making eligibility determinations and, critically, IDREs do not get paid if they find an item or service ineligible. Compl. ¶ 121(f)–(g). As alleged, that structure does not require, and creates little incentive, for IDREs to police their own jurisdiction. Contrary to *Anthem*, HCSC has therefore alleged facts “showing that [HCSC] cannot litigate eligibility [or fraud] within the IDR process.” *Anthem*, 2026 WL 982629, at *7. At a minimum, those issues require further factual development and are inappropriate for resolution at this stage.

In addition, the Fifth Circuit has contemplated vacatur claims in situations such as these where bad faith is alleged. In *Guardian Flight*, an air ambulance provider alleged that Aetna did not calculate the “qualifying payment amount” (“QPA”) properly and thereby misrepresented it to the NSA IDR entity. *Guardian Flight L.L.C. v. Med. Evaluators of Texas ASO, L.L.C.*, 140 F.4th 613, 621 (5th Cir. 2025). The Fifth Circuit explained that even if “Aetna’s reported QPA was inaccurate,” the provider “alleged no facts supporting an inference that the misstatement was intentional” and thus failed to plead bad faith. *Id.* Unlike the allegations in *Guardian Flight*, HCSC has alleged ample facts supporting that Defendants knowingly and intentionally misrepresented eligibility in order to obtain improper IDR awards. Compl. ¶¶ 144–94.

Separately, the *Anthem* court found that the IDREs did not exceed their statutory authority by issuing payment determinations on disputes that were ineligible for IDR. *Anthem*,

2026 WL 982629, at *8. But that conclusion conflates ordinary legal error with action taken outside the scope of the *limited* authority Congress conferred. The NSA authorizes IDR proceedings only for “qualified IDR items or services” satisfying specific statutory prerequisites. *See* Compl. ¶¶ 120, 127. Eligibility therefore defines the limits of the IDREs’ authority. Where those statutory predicates are absent, the IDRE has no statutory authority to issue a payment determination at all. Accordingly, HCSC plausibly alleges that IDREs exceeded the authority granted by the NSA by issuing awards on items and services that fall outside the statute’s narrowly defined scope.

The second case relied on by Defendants, *Aetna Health Inc. et al. v. Radiology Partners, Inc. et al.*, Case No. 3:24-cv-1343 (M.D. Fla. Apr. 16, 2026), is also on appeal, and again did not apply Fifth Circuit precedent. Moreover, in that case, the court did not address whether the IDREs exceeded their authority, a basis for vacatur that HCSC alleges here. Compl. ¶¶ 301–04. And with respect to vacatur based on fraud, the facts in that case differed significantly. Aetna alleged a pass-through billing scheme, where Radiology Partners funneled claims of other providers through another provider, MBB, to obtain higher reimbursement rates. Order at 2. After Aetna canceled its contract with MBB, MBB began submitting claims as out-of-network, including through the IDR process. *Id.* at 2–3. When considering both the fraud and vacatur claims, the court concluded that it was a “close call” but Aetna could not establish an out-of-network fraud scheme because it knew about the fraud when it terminated MBB’s contract, before MBB went out of network. *Id.* at 8–9. Here, however, nowhere in the Complaint does HCSC allege that it knew about Defendants’ broad-ranging fraud substantially prior to filing this lawsuit.

Radiology Partners also does not address the distinction between an eligibility decision and a final payment determination, as addressed by the parties in this case. As explained above, the NSA’s judicial review restriction applies only to “payment determinations,” not eligibility determinations. The parties in *Radiology Partners*, however, did not raise that statutory interpretation issue and thus the Court incorrectly assumed that “Aetna’s remaining claims” were subject to the same restrictions on judicial review as the payment determinations themselves. Order at 9.

Finally, in *UnitedHealthcare of Pennsylvania v. NorthStar Anesthesia of Pennsylvania*, the district court cited cases holding that the NSA does not preempt traditional state tort suits, but determined the court lacked diversity jurisdiction given that there was indisputably less than \$75,000 at issue, and so “dismiss[ed] without prejudice to allow UnitedHealthcare to pursue its common law fraud claim against NorthStar in state court.” No. 25-cv-7187, 2026 WL 1145885, at *5 (E.D. Pa. Apr. 28, 2026). The *NorthStar* court’s acknowledgment that a fraud claim could be pursued based on intentional submission of ineligible IDR disputes supports HCSC’s position.

Not only are these cases not controlling, but they underscore that the issues raised by HCSC are actively litigated and far from settled. Accordingly, Defendants have not demonstrated that their motion to dismiss is “clear cut,” or that the motion is likely to dispose of this case in its entirety. *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).

II. Defendants Have Not Demonstrated Overbroad Requests or an Undue Burden.

Defendants likewise have 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. “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 the discovery here is *distinct from the usual inconveniences and costs that are associated with discovery practice.*” *Id.* (emphasis added). Defendants have not come close to doing so.

HCSC has not yet served a single discovery request, much less one that is overbroad or unduly burdensome. Likely for that reason, Defendants resort almost entirely to speculation—asserting, for example, that discovery will require a “boundless review of each IDR between the parties.” D.E. 32 at 11. But such speculation ignores how discovery in complex healthcare litigation typically proceeds. 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 *1.¹

¹ Nor should the scope of Defendants’ fraud and kickback violations be a bar to further discovery. *See, e.g., Eastman Kodak Co. v. Camarata*, 238 F.R.D. 372, 377 (W.D.N.Y. 2006) (denying defendants’ motion to quash broad subpoenas, noting the “breadth is justified . . . by the breadth of the conspiracy alleged in the Complaint”) In other words, Defendants should not be excused from participating in discovery simply because they committed such a large number of violations. This fact alone renders the declaration from Defendants’ COO (D.E. 32-1) inapplicable, as well as unsupported speculation.

Defendants also argue a stay should be granted in light of potential confidentiality and privilege issues. These issues, however, 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.”).²

As for the kickback claims, Defendants speculate that “discovery would be a meandering, time intensive wild goose chase.” D.E. 32 at 12. 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. Nor does the unsupported speculation offered via the Declaration of Defendants’ COO help, as the witness again ignores that no discovery has been requested to date, no indication is made as to how many actual employees would be needed to respond, or what the actual burden would be on those employees. D.E. 32-1 ¶¶ 11–14.

Ultimately, Defendants’ own characterization of the anticipated discovery underscores just how ordinary the purported burden is. Defendants complain that “discovery will require a

² Here, pursuant to the Court’s scheduling orders, the parties have already exchanged drafts of a HIPAA-Qualified Protective Order.

time-intensive review process, privilege logging, and potential discovery and privilege disputes before the Court.” D.E. 32 at 12. But document collection, privilege review, and discovery disputes are routine features of virtually every complex civil case. These types of ordinary costs and inconveniences inherent in litigation are precisely the types of burden courts have repeatedly held insufficient to establish the requisite “hardship or inequity.” *Valenzuela*, 2017 WL 2778104, at *5.

III. Defendants Overlook the Significant Harm to HCSC Should the Litigation Be Delayed.

Finally, Defendants overlook the harm that a stay will cause HCSC. Despite Defendants’ assertion that a stay would result in “meager” harm to HCSC, D.E. 32 at 13, 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 HCSC. 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 HCSC is suffering ongoing injuries, and Defendants’ motion fails to grapple with the ongoing nature of the allegations.

Contrary to Defendants’ assertion that courts “regularly stay discovery” in the early stages of litigation, D.E. 32 at 13, it is in fact an “extraordinary step” that courts “routinely decline” to exercise. *Fernandez*, 2025 WL 692357, at 1–2 & n.10 (citing cases); *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”).

CONCLUSION

Defendants have failed to demonstrate that this case presents the “very rare” circumstance that warrants a stay of discovery. They have not shown that their motion to dismiss is likely to succeed in its entirety, as to both HCSC’s NSA and kickback claims, nor have they established that the motion is truly 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 HCSC’s injuries. Any stay in this case would unduly lengthen litigation and result in additional harm to HCSC. Accordingly, Defendants’ motion should be denied.

Dated: May 19, 2026

By: /s/ Jamie Kurtz _____

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*Admitted *pro hac vice*

**Motion for *pro hac vice* admission forthcoming

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CERTIFICATE OF SERVICE

I, Jamie Kurtz, hereby certify that on May 19, 2026, a true and correct copy of the above, with a proposed order, was served via e-mail through the Eastern District of Texas's CM/ECF system.

s/Jamie Kurtz

Jamie R. Kurtz