

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DISABILITY RIGHTS CONNECTICUT, : CIVIL NO. 3:21-CV-00146 (KAD)
INC. :
V. :
CONNECTICUT DEPARTMENT OF : MARCH 25, 2021
CORRECTION :

DEFENDANTS' MOTION TO STAY DISCOVERY

The defendants, the Connecticut Department of Correction (“DOC”), Commissioner Quiros, and Warden Bowles move to stay discovery in this action until the Court rules on the defendants’ pending motion to dismiss, which raises the issue of the plaintiff’s, Disability Rights Connecticut, Inc. (“DRCT”), failure to exhaust administrative remedies as required by the Protection and Advocacy for Individuals with Mental Illness Act (“PAIMI”),¹ (ECF No. 31). As set forth below, good cause exists to grant this motion.

I. BACKGROUND

On February 4, 2021, DRCT commenced the instant action. (ECF No. 1). On February 18, 2021, DRCT filed an Amended Complaint, alleging violations of the Eighth and Fourteenth Amendments to the United States Constitution, and violations of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. (ECF No. 24). In broad strokes, the Amended Complaint alleges that inmates with mental illness are subjected to prolonged isolation and in-cell restraints at the Northern Correctional Institution (“Northern”) and “elsewhere”.²

¹ 42 U.S.C. § 10801, *et seq.*

² DRCT is Connecticut’s authorized Protection and Advocacy (“P&A”) system under PAIMI, and in this action, DRCT seeks declaratory and injunctive relief on behalf of its “constituents,” Connecticut inmates with mental illness. (ECF No. 24, p. 59-60, ¶¶ a-h).

On March 12, 2021, the defendants moved to dismiss the Amended Complaint. (ECF No. 31). Specifically, the defendants' motion to dismiss seeks dismissal on the grounds that the claims raised in the Amended Complaint are not ripe due to DRCT's failure to exhaust administrative remedies as required under PAIMI, and on the grounds that DRCT lacks standing to assert third-party claims on behalf of Connecticut inmates with mental illness. (Id.). To date, DRCT has not filed an opposition and no ruling has been issued on the motion to dismiss.³

On March 12, 2021, counsel for DRCT emailed defense counsel seeking to schedule a Rule 26(f) conference. On March 14, 2021, defense counsel responded, indicating that given the grounds stated in the motion to dismiss, discovery was premature and sought DRCT's position regarding a stay of discovery until the pending motion to dismiss is ruled upon. Counsel for DRCT indicated that it did not believe that a stay of discovery was appropriate.

Thereafter, the parties scheduled a telephonic conference for March 24, 2021, and during this call, the defendants again indicated their position that entry of a proposed scheduling order and commencing discovery was premature. Defense counsel suggested that the parties request a status conference with the Court to discuss the issues of a stay of discovery and scheduling in this matter, or alternatively, if DRCT was not agreeable to that proposal, the defendants would file a motion to stay and a motion requesting a status conference with the Court. Counsel for DRCT did not indicate that it was agreeable to this proposal and again indicated that it would oppose any stay of

³ During the parties' phone conference on March 24, 2021, counsel for DRCT confirmed that DRCT does not intend on filing a second Amended Complaint and intends on filing an opposition to the defendants' motion to dismiss.

discovery. Despite the defendants' indication that it would seek to stay discovery and would be requesting a status conference to discuss these topics,⁴ DRCT served several discovery requests on March 24, 2021, shortly after the parties concluded their call. Additionally, on March 24, 2021, DRCT filed a Rule 26(f) Report. (ECF No. 32).

The defendants now move for the Court to stay discovery in this matter until resolution of the defendants' pending motion to dismiss.

II. **DISCUSSION**

A. **Courts have the inherent power to grant stays upon a showing of good cause.**

"[A] court may decide in its discretion to stay civil proceedings when the interests of justice seem to require such action." Kashi v. Gratsos, 790 F.2d 1050, 1057 (2d Cir. 1986). "A request for a stay of discovery is treated as a request for a protective order under Rule 26(c)." Stanley Works Israel Ltd. v. 500 Grp., Inc., No. 3:17-CV-01765 (CSH), 2018 U.S. Dist. LEXIS 70217, *4 (D. Conn. Apr. 26, 2018) (citations omitted). Rule 26(c) provides in relevant part that "[t]he court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including . . . forbidding the disclosure of discovery." Fed. R. Civ. P. 26(c).

"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." Stanley Works, 2018 U.S. Dist. LEXIS 70217, at *4 (quoting Landis v. N. Am. Co., 299 U.S. 248, 254 (1936)). Thus, "[a] request for a stay of discovery, pursuant to Rule 26(c) is committed to the sound discretion of the court based on a showing of good cause." Metzner v. Quinnipiac Univ., No. 3:20-CV-784 (KAD), 2020

⁴ The defendants have simultaneously filed a request for a pretrial status conference.

U.S. Dist. LEXIS 233842, *4 (D. Conn. Nov. 12, 2020) (quoting Stanley Works, 2018 U.S. Dist. LEXIS 70217, at *4). “The party seeking to stay bears the burden of demonstrating good cause.” Id.

“While discovery may in a proper case be stayed pending the outcome of a motion to dismiss, the issuance of a stay is by no means automatic.” Stanley Works, 2018 U.S. Dist. LEXIS 70217, at *5 (quoting Spencer Trask Software & Info Servs., LLC v. RPost Int’l Ltd., 206 F.R.D. 367, 368 (S.D.N.Y. 2002)). “[I]n determining whether good cause exists for a stay of discovery while a potentially dispositive motion is pending, this Court considers three factors ‘(1) the strength of the dispositive motion; (2) the breadth of discovery sought; and (3) the prejudice a stay would have on the non-moving party.’” Metzner, 2020 U.S. Dist. LEXIS 233842, at *4 (quoting Lithgow v. Edelmann, 247 F.R.D. 61, 62 (D. Conn. 2007)).

In addition to these general principles concerning a stay of discovery, authority concerning the PAIMI exhaustion provision, as cited in the defendants’ motion to dismiss, is also relevant in the Court’s determination of whether a stay is warranted in this case. Indeed, as detailed in the motion to dismiss, the inclusion of the exhaustion provision in PAIMI, the legislative history of this exhaustion provision, and published decisions examining PAIMI, supports a stay in this action pending DRCT’s exhaustion of administrative remedies. See Gonzalez v. Martinez, 756 F. Supp. 1533, 1539 (S.D. Fla. 1991) (examining PAIMI exhaustion requirement and finding that “Plaintiffs have presented little evidence that they took adequate measures to resolve this case extrajudicially” and staying “discovery and all further proceedings as to all issues other than exhaustion . . . pending a determination that the matter is ripe for judicial action”); Id. (“if

legal action is initiated, courts retain their prerogative to determine that the issues are not ripe and to remand the matter for further administrative consideration.”) (quoting H.R. Conf. Rep. No. 576, 99th Cong., 2d Sess.); see also 42 U.S.C. § 10807.

B. The particulars of this case warrant a stay of discovery until resolution of the defendants’ pending motion to dismiss.

Application of the factors cited above, in addition to the authority cited concerning the PAIMI exhaustion provision, demonstrates that a stay of discovery is warranted in this case until the Court has ruled on the defendants’ pending motion to dismiss.

i. The defendants’ motion to dismiss raises strong grounds for dismissal, or alternatively, strong grounds for a stay of discovery.

As to the first factor, the strength of the defendants’ motion to dismiss, this weighs in favor of granting a stay. In evaluating this first factor, “courts will look to see whether there are substantial arguments for dismissal, or stated differently, whether there has been a strong showing that the plaintiff’s claim is without merit.” Metzner, 2020 U.S. Dist. LEXIS 233842, at *10 (internal quotation marks and citations omitted). The defendants’ motion to dismiss raises strong grounds for dismissal, including raising arguments implicating the Court’s jurisdiction based on DRCT’s failure to exhaust administrative remedies as required by PAIMI. See (ECF No. 31). Specifically, the motion to dismiss details PAIMI’s exhaustion provision, DRCT’s failure to exhaust, and cites case law supporting the proposition that P&A’s, like DRCT, are required to exhaust administrative remedies prior to initiating suit. This motion further details the purpose and benefit of requiring exhaustion under PAIMI, citing not only case law and PAIMI’s legislative history, but also citing DRCT’s actions and the effectiveness of informal administrative remedies, including a recent example of such administrative process working involving DRCT.

As detailed in the motion to dismiss, DRCT clearly failed to exhaust the statutorily imposed administrative remedies and DRCT's failure to exhaust renders the instant claims unripe as the parties, and the Court, would benefit from further factual development, including a narrowing and focusing of the issues in dispute. Additionally, DRCT would not face any significant hardship if a decision on the issues were withheld while the parties worked through the administrative process.

Finally, even though the defendants' motion to dismiss seeks dismissal of the claims, in the alternative, the motion to dismiss seeks a stay of all proceedings, including discovery, while DRCT pursues its statutorily imposed remedies through the administrative process. See (ECF No. 31-1, p. 30 n. 20). This argument is particularly relevant here, as this is the same grounds on which the defendants now seek a stay of discovery given DRCT's indication that it will proceed with serving discovery and has in fact already served discovery. The motion to dismiss further cites to authority supporting the defendants' position that a stay is appropriate while DRCT exhausts its statutorily imposed administrative remedies. As a result, the first factor weighs in favor of a stay.

ii. DRCT seeks broad and extensive discovery in this matter and has already served discovery, and the burden on the defendants if a stay is not granted would be substantial.

As to the second factor, the breadth of discovery sought in this action is expansive and the burden on the defendants if a stay is not granted would be substantial. The defendants would be forced to be subjected to expansive discovery on extremely broad and generalized issues, which do not have the benefit of being narrowed or more focused through administrative channels. Indeed, DRCT's Rule 26(f) Report makes clear that DRCT "will require significant discovery in this action" and "anticipates requiring substantial discovery." (ECF No. 32, p. 7). DRCT goes on to list the anticipated discovery

topics and needs, including the need for expert discovery, the need for numerous depositions, and serving of written discovery and anticipate that discovery will require more than a year to complete. (Id. at 7-11). Not only does DRCT's Rule 26(f) Report demonstrate the broad and extensive nature of discovery sought in this action, but DRCT has also already served extensive written discovery on the defendants.

On March 24, 2021, despite the defendants indication that they would be seeking a stay and requesting a status conference, DRCT served several written discovery requests on the defendants, including ninety (90) requests for production of documents, seventeen (17) interrogatories directed at each defendant, and a request to inspect Northern.⁵ As demonstrated by DRCT's proposed discovery needs, as well as the expansive written discovery recently served, the defendants would face substantial burdens and expenses in responding to and being subjected to such expansive discovery if a stay is not granted. See Metzner, 2020 U.S. Dist. LEXIS 233842, at *4 ("In assessing the second factor the Court may consider the burden of responding to discovery.") (citations omitted). In fact, this is the essential basis for the defendants' pending motion to dismiss, which seeks dismissal on the grounds that DRCT has not exhausted statutorily imposed administrative remedies, remedies which would narrow and focus the issues in dispute, including issues that require discovery.⁶ Given the broad nature of discovery

⁵ A copy of DRCT's discovery requests are attached as Exhibit A.

⁶ Indeed, as detailed in the motion to dismiss, DRCT has seemingly broadened the issues in dispute with the filing of the Amended Complaint. DRCT's original complaint and November 23, 2020 letter to DOC makes clear that the issues raised and identified related to Northern specifically, and the conditions DRCT wished to change are the product of long-standing administrative practices at that facility; however, DRCT's Amended Complaint and Rule 26(f) Report seemingly broaden the issues initially raised to Northern and other DOC facilities. See (ECF No. 33-1, p. 27-28).

sought in this matter, as well as DRCT's failure to exhaust remedies that would potentially narrow or limit the issues for discovery, requiring the defendants to be subjected to such discovery is burdensome. As a result, the second factor weighs in favor of a stay.

iii. DRCT would not be prejudiced by a stay.

As to the third factor, the prejudice a stay would have on DRCT, this weighs in favor of granting a stay as DRCT would not be prejudiced if a stay were issued pending a decision on the motion to dismiss. Specifically, as detailed in the motion to dismiss, DRCT would not endure any significant hardship or prejudice if this case were stayed while DRCT exhausted its statutorily imposed administrative remedies. See (ECF No. 31-1, p. 29). Critically, DRCT's Amended Complaint identifies only three inmates who allegedly have suffered adverse conditions, and all three of those inmates have their own litigation pending in this court. The defendants do not seek to stay any of those individual cases. As a result, staying this action while DRCT works with DOC through administrative channels to mediate the issues raised in the instant suit actually benefits DRCT as the administrative process may resolve certain issues, or at least narrow the issues, which would permit DRCT to more efficiently and effectively litigate any remaining issues in dispute, including narrowing the issues that would be subjected to discovery.⁷

Moreover, as demonstrated in DRCT's Rule 26(f) Report, the time frame for completing discovery is anticipated to be over a year, meaning even under DRCT's proposed schedule, DRCT would have ample time to complete discovery in the event that the defendants' motion to dismiss is denied. Any delay in DRCT being able to commence

⁷ As cited in the motion to dismiss, the administrative process has worked in a very recent situation involving DRCT, and demonstrates that attempting to address issues, first, through administrative channels, is more efficient and effective. See (ECF No. 31-1, p. 19-20).

CERTIFICATION

I hereby certify that on March 25, 2021, a copy of the foregoing was filed electronically. Notice of this filing was sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's System.

_____/s/_____
Edward D. Rowley
Assistant Attorney General