

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SHYSHA LEWIS,

Plaintiff,

v.

WELLS FARGO BANK, N.A.

Defendant.

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CIVIL ACTION NO. 4:23-cv-00934

JOINT MOTION TO STAY

Plaintiff Shysha Lewis (“Plaintiff”) and Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) (collectively, the “Parties”) file this Joint Motion to Stay, requesting that the Court stay all remaining pretrial deadlines and continue trial until the Court rules on Wells Fargo’s Motion for Summary Judgment.¹ The Parties make this request as the outcome of the Motion for Summary Judgment could be case determinative, and the Parties wish to conserve resources that would otherwise be required to file a joint pretrial order, attend a final pretrial conference and/or docket call, and prepare for trial. In support of this Joint Motion to Stay, the Parties show the Court as follows:

I. NATURE AND STAGE OF THE PROCEEDING

Wells Fargo removed this suit from state court to this Court on March 14, 2023.² The Court signed a Scheduling and Docket Control Order and scheduled docket call on September 17, 2024.³ The Court ordered the Parties to mediation and set other pretrial

¹ See Doc. No. 27.

² Doc. No. 1.

³ Doc. No. 13.

deadlines.⁴ In early February 2024, the Parties notified the Court that they were unable to reach a settlement in mediation, resulting in a declaration of an impasse by the mediator.⁵ Wells Fargo timely filed its Motion for Summary Judgment within the dispositive motion deadline.⁶ Plaintiff timely responded to the Motion for Summary Judgment, and Wells Fargo replied.⁷ Wells Fargo's Motion for Summary Judgment is pending.

The remaining pretrial deadlines include:

- 7/25/2024 – Deadline for Joint Pretrial Order and Motions in Limine.⁸
- 9/17/2024 – Docket Call.⁹

The Parties now jointly move to stay these deadlines and continue trial until the Court rules on Wells Fargo's Motion for Summary Judgment.

II. ARGUMENTS AND AUTHORITIES

A. Legal Standard

This Joint Motion to Stay invokes consideration of Rules 6(b)(1)(A) and 16(b)(4) of the Federal Rules of Civil Procedure. Rule 6(b)(1)(A) states, "When an act may or must be done within a specified time, the court may, for good cause, extend the time with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires." FED. R. CIV. P. 6(b)(1)(A). Rule 16(b)(4) authorizes a court to modify the scheduling order "only for good cause and with the judge's consent." FED. R.

⁴ Doc. No. 13.

⁵ Doc. No. 28.

⁶ Doc. No. 27.

⁷ Doc. Nos. 29–32.

⁸ Doc. No. 13.

⁹ Doc. No. 13.

Civ. P. 16(b)(4). Taken together, Rules 6 and 16 require a showing of good cause before a court may modify a scheduling order.

B. Good Cause Supports Granting this Joint Motion to Stay

Good cause exists to stay the remaining pretrial deadlines and continue trial to preserve significant resources among the Parties and of this Court while awaiting a ruling on Wells Fargo's Motion for Summary Judgment, which could have a material impact on a trial on the merits. Indeed, the Parties cannot ascertain the issues that would be necessary for trial—if any—until the Court rules on Wells Fargo's Motion for Summary Judgment. As an initial matter, the Motion for Summary Judgment is potentially case dispositive, so it could obviate the need for any further filings or actions by the Parties. But even if the Motion for Summary Judgment is not granted in total, the Parties need to know if they have to address at trial whether the Parties formed a valid and enforceable contract. In addition, the Parties need to know if they have to address at trial whether RESPA applies to subsequent loan modification applications. Thus, the Parties need to know if they have to prepare for trial at all and, if so, on what issues before they unnecessarily expend a considerable amount of time, money, and other resources.

The Court maintains broad discretion to stay proceedings and control its own docket for efficiency's sake. *See Clinton v. Jones*, 520 U.S. 681, 683 (1997) (“[T]he District Court has broad discretion to stay proceedings as an incident to its power to control its own docket”); *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (“[T]he 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”); *Sugartown United Pentecostal Church Inc. v. Church Mut. Ins. Co.*, No. 23-30072, 2024 WL 62947, at *4 (5th Cir. Jan. 5, 2024) (per curiam) (“District courts have great discretion to enforce pretrial orders”); *Geiserman v. MacDonald*, 893 F.2d 797, 790 (5th Cir. 1990) (acknowledging that courts are vested with “broad discretion to preserve the integrity and purpose of the pretrial order”). Since good cause exists here, the Parties respectfully request that the Court exercise its discretion to stay the proceedings and continue trial until it rules on the pending Motion for Summary Judgment because a stay would conserve the resources of the Court and the Parties.

No party opposes this Joint Motion to Stay. No party will be prejudiced by the granting of this Joint Motion to Stay. This Joint Motion to Stay is not filed for delay, but so that justice may be done in this matter.

III. CONCLUSION

For these reasons, the Parties request that the Court stay all remaining pretrial deadlines and continue trial until the Court rules on Wells Fargo’s Motion for Summary Judgment.¹⁰ The Parties also request that the Court award them all other relief, at law and in equity, to which they are justly entitled.

¹⁰ See Doc. No. 27.

Respectfully submitted,

/s/ Helen O. Turner

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of June, 2024, a true and correct copy of the foregoing instrument was served on the following counsel of record *via ECF and/or email* according to the Federal Rules of Civil Procedure:

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