

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
MISSISSIPPI, ABERDEEN DIVISION

Li Zhang v. Mississippi State University and Mississippi Board of
Trustees of State Institutions of Higher Learning

Zhang · No. 1:23-cv-71-GHD-DAS · Decided January 22, 2026

SUMMARY

The United States District Court for the Northern District of Mississippi denies Plaintiff Li Zhang’s motion to stay the case. The court holds that Defendants waived the discovery stay available under the local rule for an immunity defense, without waiving the Eleventh Amendment immunity defense itself, and notes that discovery was nearly complete.

CASE DETAILS

COURT	United States District Court for the Northern District of Mississippi, Aberdeen Division
WRITING FOR THE COURT	David A. Sanders
JURISDICTION	United States District Court for the Northern District of Mississippi, Aberdeen Division
DECIDED	January 22, 2026
DOCKET	1:23-cv-71-GHD-DAS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to stay the case because Defendants had filed a motion for partial dismissal raising Eleventh Amendment immunity. The court considered the motion after full briefing and denied it.
PRECEDENTIAL VALUE	Unknown

TOPICS

- eleventh amendment immunity
- motions to dismiss
- civil procedure

PRACTICE AREAS

- civil procedure
- constitutional law
- employment discrimination

QUESTIONS PRESENTED

1. Whether the case should be stayed because Defendants filed a motion for partial dismissal asserting Eleventh Amendment immunity.
2. Whether Defendants could waive the local-rule stay protecting an immune defendant from the burdens of discovery without waiving the underlying immunity defense.

HOLDINGS

1. The stay protecting a defendant from the burdens of litigation and discovery while an immunity motion is pending belongs to the defendant and may be waived by that defendant.
2. Defendants' waiver of the stay did not waive their underlying Eleventh Amendment immunity defense.
3. Plaintiff was not entitled to a stay because Defendants affirmatively waived the stay and a stay at that stage would not spare the parties the burdens of discovery, which had already been borne.

KEY QUOTATIONS

“Filing a motion . . . asserting an immunity defense . . . stays . . . all discovery, pending the court’s ruling on the motion, including any appeal.”

“Defendants affirmatively waive their right to a stay, and by doing so, do not waive the immunity defense itself.”

FACTUAL BACKGROUND

Defendants filed a motion for partial dismissal raising Eleventh Amendment immunity. Defendants did not request a stay under the applicable local rule and later unequivocally waived their right to a stay, while expressly asking the case to proceed. Discovery was scheduled to close the day after the court ruled on Plaintiff's motion.

PROCEDURAL HISTORY

Defendants filed a motion for partial dismissal asserting Eleventh Amendment immunity. Although the local rule provides for a stay of discovery upon the filing of an immunity motion, Defendants did not seek a stay and expressly waived their right to one while asking that the case proceed. Plaintiff then moved for a stay, which the court denied because Defendants waived the stay and discovery was scheduled to close the following day.

DISPOSITION

other

CASES CITED

- Backe v. LeBlanc, 691 F.3d 645, 648 (5th Cir. 2012)
- James v. Cleveland School Dist., 2020 WL 4370608, at *3-4 (N.D. Miss. July 30, 2020)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI ABERDEEN DIVISION LI ZHANG PLAINTIFF v. CASE NO. 1:23-cv-71-GHD-DAS MISSISSIPPI STATE UNIVERSITY and MISSISSIPPI BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING DEFENDANTS ORDER DENYING MOTION TO STAY [Dkt. 108] Before the Court is Plaintiff's Motion to Stay Case, which has been fully briefed and is ripe for review.

As Plaintiff notes, Defendants have filed a Motion for Partial Dismissal [Dkt. 100], which raises Eleventh Amendment immunity. Pursuant to L.U. CIV. R. 16(b)(3)(B), [f]iling a motion... asserting an immunity defense... stays... all discovery, pending the court's ruling on the motion, including any appeal." Notably, at the time of filing the motion, "the moving party must submit to the magistrate judge a proposed order granting the stay." L.U.

CIV. R. 16(b)(3)(C). Defendants elected not to seek a stay, prompting Plaintiff to do so. In response to Plaintiff's motion, Defendants unequivocally waive their right to such a stay and expressly ask that the case move forward, notwithstanding the pending immunity-related motion. This particular stay provision is designed to protect an immune defendant from the burden of litigation itself, including pretrial discovery.

Backe v. LeBlanc, 691 F.3d 645, 648 (5th Cir. 2012). As the right belongs to the defendant, it may be waived by the defendant. See James v. Cleveland School Dist., 2020 WL 4370608, at *3-4 (N.D. Miss. July 30, 2020). Defendants affirmatively waive their right to a stay, and by doing so, do not waive the immunity defense itself.

Moreover, discovery in this cause closes tomorrow. Staying the case at this juncture would, as Defendants put it, "not spare the parties the burdens of discovery; those burdens have already been borne. Instead, a stay would simply threaten to delay the resolution of this case." Plaintiff's motion to stay is therefore DENIED. SO ORDERED, this the 22nd day of January, 2026. /s/ David A. Sanders UNITED STATES MAGISTRATE JUDGE