

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

OPINION

Zhang

PER CURIAM.

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

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