

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

**The Village of Endicott v. International Business Machines
Corporation (IBM)**

Village of Endicott v. IBM · No. 7:24-cv-09242-NSR · Decided December 3, 2025

OPINION

The Village of Endicott v. International Business Machines Corporation (IBM)

PER CURIAM.

NAPOLI USDC SDNY

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ELECTRONICALLY FILED

ATTORNEYS AT LAW DOC #:

DATE FILED: 12/03/2025 _

December 2, 2025

VIA ECF

Hon. Nelson S. Roman The Hon. Charles L. Brieant Jr. Federal Building and United States Courthouse 300 Quarropas Street White Plains, NY 10601-4150 Re: ‘The Village of Endicott v. International Business Machines Corporation (IBM) Civil Docket No. 7:24-cv-09242-NSR Dear Judge Roman, We write on behalf of Plaintiff, The Village of Endicott (the “Village”), in response to Defendant IBM’s (“IBM”) pre-motion letter of November 24, 2025 (“Pre-Motion Letter”, ECF No. 37), renewing their request for a stay of discovery pending the Court’s ruling on their motion to dismiss. IBM’s original request seeking a stay of discovery was made on August 6, 2025 (“Pre-Motion Letter” ECF No. 27). Plaintiff responded on August 14, 2025 (ECF No. 35), objecting to the stay of discovery and asking the Court to schedule a Rule 26(f) conference to set a discovery schedule. The Village’s objection to the stay of discovery contained an analysis of the three factors that Courts consider when determining whether good cause exists to stay discovery. The Village’s analysis clearly indicated that IBM’s arguments fall short under each category and fail to present compelling arguments to stay discovery. The Village reiterates their position that due to the complexity of issues and length of time related to damages caused by IBM, prolonged discovery may be required. An unnecessary stay of discovery will undoubtedly continue to severely prejudice the Village as the Village continues to suffer from and respond to the contamination and environmental damages caused by IBM. As it appears that IBM is focused on doing everything it can to delay litigating this matter and facing accountability for the damages caused to the Village and the Village’s continued expenditures at the cost of its rate payers. Although the Fed.R.Civ.P. 26(c) provides authority for the Court to issue a stay of discovery pending the resolution of

dispositive motions, see, e.g., *Transunion Corp. v. PepsiCo, Inc.*, 811 F.2d 127, 130 (2d Cir.1987), the issuance of a stay is not mandated by rule or decision. Rather, as noted by the Honorable Lawrence M. McKenna, United States District Judge, Southern District of New York, discovery should not be routinely stayed simply on the basis that a motion to dismiss has been filed. In *re Chase Manhattan Corp. Secured Litigation*, 1991 WL 79432, 1, 1991 U.S. Dist. LEXIS 6136, 1 (S.D.N.Y. May 7, 1991). Judge McKenna noted that the drafters of the Federal Rules of Civil Procedure, had they contemplated an automatic stay upon the filing of a motion to dismiss, would have so provided. See *Hachette Distribution, Inc. v. Hudson County News Co.*, 136 F.R.D. 356, 358 (E.D.N.Y.1991). In *re Chase Manhattan Corp. Securities Litigation*, Judge McKenna denied defendants' motion to stay discovery pending the resolution of a motion to dismiss. He noted that allowing discovery to go forward could move the action along toward a speedier resolution: "[s]hould the complaint (or an amended complaint) be sustained ...commencement of the discovery process, while no doubt imposing some burden on defendants, will advance the ultimate disposition of this action." See *Moran v. Flaherty*, No. 92 CIV. 3200 (PKL), 1992 WL 276913, at 1-2 (S.D.N.Y. Sept. 25, 1992). IBM's misinterpretation of the law, facts and allegations pled in the Village's Amended Complaint are again highlighted in their proposed Memorandum of Law in Support of their motion to stay discovery (ECF Doc. 37-2). Additionally, IBM's arguments for why it believes discovery should be stayed actually support why discovery should proceed. IBM highlights that we are dealing with an extensive timespan and that discovery in this litigation "... would entail highly technical discovery into, among other things, the fate and transport of pervasive and persistent chemicals in groundwater and soil. The Village's allegations concern hydrogeology and the migration of chemicals in underground plumes, pools, and groundwater pathways." See ECF Doc. 37-2, page 11. The lack of confidence in the success of IBM's motion to dismiss is apparent in IBM's proposed Memorandum of Law stating that "[e]ven if the Amended Complaint is not dismissed in its entirety, simplifying this case by eliminating or narrowing the claims (e.g., dismissing all claims as to Well 32 and PFAS) would 'materially lessen the burden and breadth of what. ..will likely be significant discovery in a highly technical case such as this.'" *Id.* at page 12. Additionally, the "Introduction" paragraph of IBM's Memorandum of Law appears to try and hedge its' bet by stating, "[m]oreover, even if the motion is unsuccessful in disposing of the action in its entirety, its resolution is likely to resolve at least portions of this case, obviating the need for the voluminous and burdensome discovery Plaintiff now seeks" *Id.* at page .1 In conclusion, for all the reasons above, along with all those outlined in the Village's August 14, 2025, letter response (ECF Doc. 35) the Village again objects to IBM's application for a stay of discovery while IBM's motion to dismiss is pending. The Village respectfully requests this Court to schedule a Rule 26(f) conference or issue a court order directing and outlining pre-Rule 26(f) conference discovery. Respectfully Submitted,

NAPOLI SHKOLNIK PLLC

Court is in receipt of Plaintiff's letter, dated December Counsel for Plaintiff 025, opposing

Defendant's motion to stay discovery. No. 39.) In light of Defendant's pending motion to the First Amended Complaint (See ECF No. 34), instant action is stayed pending resolution of the CELA to dismiss 80 ORDERED: . Robert Gitelman, Esq. December 3, 2025 PATE = Joseph P. Napoli, Esq. White Plains, NY esa Stephen J. Maloney, Jr., Esq. \$soud Sees Diet clin 360 Lexington Avenue, Floor 11 New York NY 10017-6502 Tel. (212) 397-1000 Fax. (646) 843-7603 Ce: All counsel of Record via ECF

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