

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Thomas Harvey, individually and on behalf of all others similarly situated v. WK Kellogg Co. and Walmart Inc.

No. 2:25-cv-03984 (SJB) (JMW) (E.D.N.Y. Dec. 22, 2025) · No. No. 2:25-cv-03984 (SJB) (JMW) · Decided December 22, 2025

SUMMARY

The United States District Court for the Eastern District of New York granted Defendants’ motion to stay discovery in a consumer class action concerning allegedly inaccurate serving-size and servings-per-container information on Froot Loops with Marshmallows cereal labels. The court concluded that Defendants had shown that most claims were likely subject to dismissal, discovery would be burdensome, and Plaintiff would suffer little prejudice from a limited stay pending resolution of the anticipated motion to dismiss.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	James M. Wicks
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	December 22, 2025
DOCKET	No. 2:25-cv-03984 (SJB) (JMW)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for a partial stay of discovery pending resolution of their anticipated motion to dismiss the Amended Complaint, or alternatively for a complete stay of discovery as to Walmart.
STANDARD OF REVIEW	Discretionary case-management review under Federal Rule of Civil Procedure 26(c), requiring good cause for a stay of discovery; courts consider the apparent merit of the anticipated dispositive motion, the breadth and burden of discovery, prejudice to the opposing party, and related considerations such as the action's complexity and posture.
PRECEDENTIAL VALUE	Nonprecedential district-court memorandum and order; persuasive only outside the case.

TOPICS

discovery dispute

motions to dismiss

consumer protection

deceptive trade practices

civil procedure

PRACTICE AREAS

Civil procedure

Consumer protection

Food and beverage labeling

Commercial law and warranties

Class actions

QUESTIONS PRESENTED

1. Whether discovery should be stayed under Federal Rule of Civil Procedure 26(c) pending resolution of Defendants' anticipated motion to dismiss.
2. Whether the anticipated motion to dismiss made a sufficiently strong showing of likely merit to support a stay.
3. Whether the breadth and burden of anticipated discovery and the absence of meaningful prejudice favored staying discovery.

HOLDINGS

1. A court may stay discovery under Federal Rule of Civil Procedure 26(c) when good cause is shown; the mere filing or pendency of a dispositive motion does not automatically stay discovery.
2. Defendants' motion to stay discovery was granted in its entirety.

KEY QUOTATIONS

"The mere filing of a dispositive motion, in and of itself, does not halt discovery obligations in federal court."
(Legal Standard)

"That is, a stay of discovery is not warranted, without more, by the mere pendency of a dispositive motion."
(Legal Standard)

"For the foregoing reasons, Defendants' motion to stay discovery (ECF No. 22) is GRANTED." (Conclusion)

FACTUAL BACKGROUND

Plaintiff alleged that nutrition labels on Kellogg's Froot Loops with Marshmallows misstated that 1 1/3 cups equaled 39 grams and that the product contained about 12 servings per container. Plaintiff alleged independent laboratory testing showed that 1 1/3 cups weighed more than 45 grams, meaning the product provided fewer servings than represented. He asserted New York consumer-protection and warranty claims against the manufacturer and Walmart.

PROCEDURAL HISTORY

Plaintiff filed a consumer class action asserting New York General Business Law claims and breach-of-warranty claims concerning nutrition-label statements on Froot Loops with Marshmallows cereal. After Plaintiff filed an Amended Complaint and the court entered an initial discovery schedule, Defendants sought a stay of discovery while preparing a Rule 12(b)(6) motion. The magistrate judge granted the motion in its entirety.

DISPOSITION

other

CASES CITED

- L.N.K. International, Inc. v. Continental Casualty Company, No. 22-cv-05184 (GRB) (JMW), 2023 WL 2614211, at *1 (E.D.N.Y. Mar. 23, 2023)
- Thomas v. N.Y. City Department of Education, No. 09-CV-5167, 2010 WL 3709923, at *2 (E.D.N.Y. Sept. 14, 2010)
- Gagliano v. United States, No. 24-cv-07930 (SJB) (JMW), 2025 WL 1104042, at *2 (E.D.N.Y. Apr. 14, 2025)
- Weitzner v. Sciton, Inc., No. CV 2005-2533, 2006 WL 3827422, at *1 (E.D.N.Y. Dec. 27, 2006)
- Alloway v. Bowlero Corp., No. 2:24-CV-04738 (SJB) (JMW), 2025 WL 1220185, at *1 (E.D.N.Y. Apr. 28, 2025)
- Hearn v. United States, No. 17-CV-3703, 2018 WL 1796549, at *2 (E.D.N.Y. Apr. 16, 2018)
- Brinkmann v. Town of Southold, New York, No. 21-cv-02468 (LDH) (JMW), 2022 WL 3912974, at *1 (E.D.N.Y. Aug. 31, 2022)
- Vida Press v. Dotcom Liquidators, Ltd., 22-cv-2044 (HG) (JMW), 2022 WL 17128638, at *1 (E.D.N.Y. Nov. 22, 2022)
- Chesney v. Valley Stream Union Free School District No. 24, 236 F.R.D. 113, 115 (E.D.N.Y. 2006)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- CompassCare v. Hochul, 125 F.4th 49, 56-57 (2d Cir. 2025)
- Krys v. Pigott, 749 F.3d 117, 128 (2d Cir. 2014)
- Armstrong v. Hempstead Union Free School District, No. 25-cv-03611 (RPK) (JMW), 2025 WL 3440499, at *2, *5 (E.D.N.Y. Dec. 1, 2025)
- Gwinn v. Laird Superfood, Inc., 643 F. Supp. 3d 450, 455-57 (S.D.N.Y. 2022)
- Yonan v. Walmart, Inc., 591 F. Supp. 3d 1291, 1301-02 (S.D. Fla. 2022)
- Vigil v. Mars, Inc., 16CV03818, 2017 WL 8294273, at *1 (N.D. Cal. Jan. 9, 2017)
- In re Kind LLC 'Healthy & All Natural' Litigation, 287 F. Supp. 3d 457, 464 (S.D.N.Y. 2018)
- Chufen Chen v. Dunkin' Brands, Inc., 954 F.3d 492, 500 (2d Cir. 2020)
- Fink v. Time Warner Cable, 714 F.3d 739, 741 (2d Cir. 2013)
- Avola v. Louisiana-Pacific Corp., 991 F. Supp. 2d 381, 397 (E.D.N.Y. 2013)
- Cohn v. Kind, LLC, No. 13 Civ. 8365 (AKH) (S.D.N.Y. Jan. 14, 2015)
- Gelber v. Stryker Corp., 788 F. Supp. 2d 145, 165 (S.D.N.Y. 2011)
- Schimmenti v. Ply Gem Industries, Inc., 549 N.Y.S.2d 152, 154 (App. Div. 1989)
- Valcarcel v. Ahold U.S.A., Inc., 577 F. Supp. 3d 268, 282 (S.D.N.Y. 2021)
- Grossman v. Simply Nourish Pet Food Co., 516 F. Supp. 3d 261, 282 (E.D.N.Y. Jan. 27, 2021)
- Stern v. Electrolux Home Products, Inc., No. 22-cv-3679 (JMA) (ARL), 2024 WL 416495, at *10 (E.D.N.Y. Jan. 30, 2024), report and recommendation adopted, 2024 WL 4297656 (E.D.N.Y. Sept. 26, 2024)

- Petrosino v. Stearn's Products, Inc., No. 16-CV-7735, 2018 U.S. Dist. LEXIS 55818, 2018 WL 1614349, at *2 (S.D.N.Y. Mar. 30, 2018)
- Caronia v. Philip Morris USA, Inc., 715 F.3d 417, 433-34 (2d Cir. 2013)
- Feldman v. Wakefern Food Corp., 716 F. Supp. 3d 71, 86 (S.D.N.Y. 2024)
- Harris v. Pfizer Inc., 586 F. Supp. 3d 231, 245 (S.D.N.Y. 2022)
- Aracena v. BMW of North America, LLC, 159 A.D.3d 664, 71 N.Y.S.3d 614, 616 (2d Dep't 2018)
- Anderson v. Unilever United States, Inc., 607 F. Supp. 3d 441, 459 (S.D.N.Y. 2022)
- Zachmann v. Coleman Co., No. 20-CV-9146, 2022 WL 161480, at *5 (S.D.N.Y. Jan. 18, 2022)
- DeCoursey v. Murad, LLC, 673 F. Supp. 3d 194, 213 (N.D.N.Y. 2023)
- Velez v. Lasko Products, LLC, 706 F. Supp. 3d 444, 461 (S.D.N.Y. Dec. 14, 2023)
- Silva v. Smucker Natural Foods, Inc., No. 14-CV-6154 (JG) (RML), 2015 WL 5360022, at *11 (E.D.N.Y. Sept. 14, 2015)
- Brockington v. Dollar General Corp., 695 F. Supp. 3d 487, 514 (S.D.N.Y. 2023)