

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 04-22572-CIV-KING/O'SULLIVAN

EMMA YAIZA DIAZ et al.,

Plaintiffs,

v.

KURT BROWNING, Secretary of State
of Florida, et al.,

Defendants.

**DEFENDANT LESTER SOLA'S MOTION FOR
STAY AND PROTECTIVE ORDER AND SUPPORTING MEMORANDUM OF LAW**

All that remains pending against Supervisor Sola is Plaintiff's claim that, notwithstanding Florida law to the contrary, Supervisor Sola must allow a "grace period" for persons to complete their incomplete voter registration applications after the deadline for doing so has passed. See D.E. 201 at 21. Yesterday, Supervisor Sola filed a motion for judgment on the pleadings on this claim. See D.E. 213. As this dispositive motion could end Supervisor Sola's involvement in this case, he respectfully requests that, until the Court resolves that motion, it postpone Supervisor Sola's obligations to comply with Local Rule 16, and stay all discovery in this matter as it may pertain to Supervisor Sola.

The Eleventh Circuit has generally recognized that dispositive motions should be resolved before allowing a case to proceed. See Chudasama v. Mazda Motor Corp., 123 F.3d 1353, 1367 (11th Cir. 1997) ("Facial challenges to the legal sufficiency of a claim or defense, such as a motion to dismiss based on failure to state a claim for relief, should . . . be resolved before discovery begins.") (footnote omitted); see also Horsley v. Feldt, 304 F.3d 1125, 1131 n.2 (11th Cir. 2002) (affirming district court's suspension of discovery pending resolution of motion for judgment on the pleadings); McCabe v. Foley, 233 F.R.D. 683, 687 (M.D. Fla. 2006) (relying on Chudasama to hold that discovery should be stayed while the court resolved dispositive motion raising purely legal issues); Carcamo v. Miami-Dade County, Case No. 03-20870-CIV, 2003 WL 24336368, at *1 (S.D. Fla. Aug. 1, 2003) (Ungaro-Benages, J.) (staying discovery); In re Managed Care Litig., Case No. 00-1334-MD, 2001 WL 664391, at *2 (S.D. Fla. June 12, 2001) (Moreno, J.) (staying discovery pending resolution of motion to dismiss).

Accordingly, Supervisor Sola requests that the Court postpone his obligation to comply with Local Rule 16, and stay all discovery that may be directed at him until the Court resolves his pending motion for judgment on the pleadings.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1.A(3), I certify that undersigned counsel conferred with counsel for Plaintiffs, who indicated that Plaintiffs will oppose the relief sought through this motion.

s/ Jeffrey P. Ehrlich
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CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2007 I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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