

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

JOY ELAINE DALEY, ET AL.

Plaintiffs,

v.

ALPHA KAPPA ALPHA SORORITY, INC.,
ET AL.

Defendants.

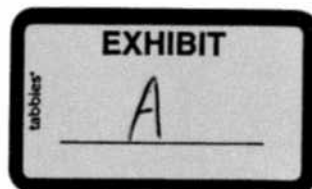
CIVIL ACTION NO: 2009 ca 004456 B

JUDGE NATALIA COMBS GREENE

Next Event: Deadline for Discovery
Requests: December 17, 2009

**DEFENDANTS' REPLY MEMORANDUM TO PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO STAY DISCOVERY PENDING THE
RESOLUTION OF THEIR MOTION TO DISMISS**

Defendants Alpha Kappa Alpha Sorority, Inc. ("AKA"), AKA Educational Advancement Foundation, Inc. ("AKA Foundation"), Barbara A. McKinzie ("McKinzie"), Carolyn House Stewart, Esq., Melanie C. Jones, Dorothy Buckhanan Wilson, Freddie Groomes-McLendon, Glenda Glover ("Glover"), Shayla M. Johnson, Noel Marie Niles, Pamela Bates Porch, Lavern Tarkington, Schylbea J. Hopkins, Norma Tucker, Ruby Batts Archie, Hon. Vicki Miles-LaGrange, Evelyn Sample-Oates, Ella Springs Jones, Gwendolyn Brinkley, Juanita Sims Doty, Tari Bradford, Betty Nolan James ("James"), E. LaVonne Lewis, Ranika Sanchez, Adria Robinson and Shaylyn Cochran (collectively, the "Defendants"), respectfully submit this Reply to Plaintiffs' Opposition to Defendants' Motion to Stay Discovery Pending Resolution of Defendants' Motion to Dismiss. In support thereof, Defendants state the following:



I. A STAY IS PROPER PENDING THE OUTCOME OF DEFENDANTS' MOTION TO DISMISS, AS RESPONDING TO PLAINTIFFS' WILL CAUSE A SIGNIFICANT UNDUE BURDEN ON THE DEFENDANTS.

Plaintiffs' Opposition to Defendants' Motion to Stay fails to counter any of the arguments set forth in Defendants' Motion to Stay and is a transparent attempt to undermine the extensive, comprehensive nature of the Plaintiffs' discovery requests. Significantly, staying discovery in this matter is appropriate in light of the substantial discovery requests propounded by the Plaintiffs and the fact that it will be unduly burdensome and potentially wasteful for the Defendants to engage in discovery pending a resolution of their Motion to Dismiss.

1. Failure to Stay Discovery Will Cause a Significant Undue Burden On All Twenty-Six (26) Defendants Should All or Part of Defendants' Motion to Dismiss Be Granted.

Crucial to Defendants' Motion to Stay is Defendants' contention that this Court lacks personal jurisdiction over many, if not all of the twenty-four (24) individually named Defendants. Significantly, in their Motion to Dismiss, Defendants seek dismissal of all twenty-four (24) individually named Defendants pursuant to the District's long-arm statute and the constitutional requirements for minimum contacts, in addition to other reasons.¹ See Defs.' Mot. to Dis. at pp. 5-12; D.C. Code § 13-423; *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). Defendants' Motion to Dismiss also seeks dismissal of all ten-counts of the Amended Complaint against all Defendants due to Plaintiffs' lack of standing in failing to demonstrate an "injury in fact." See Defs.' Mot. to Dis. at pp. 12-13.

¹ These reasons include, but are not limited to, the language of D.C. Code § 29-971.06(b). See Defs.' Mot. to Dis. at pp. 31-33.

Given the substantial nature of Plaintiffs' discovery requests to all twenty-six (26) Defendants, and the likelihood that many, if not all of the individual Defendants will be dismissed from this action pursuant to Defendants' Motion to Dismiss, it is impractical and unduly burdensome for both the Court and the parties to engage in discovery at this time. Rather, upon the Court's resolution of the Motion to Dismiss, discovery can then be tailored to the remaining claims/Defendants, if any. Indeed, in their Opposition to Defendants' Motion for Civil 1, Plaintiffs repeatedly characterize the issues in this case as "straightforward." *See* Pls.' Opp. to Defs.' Mot. for Ass. to Civ. I at p. 2. Thus, it is only fitting that these "straightforward" jurisdictional issues, which include "a Motion to Dismiss that challenges (1) jurisdiction over all of the Defendants except the Sorority itself; (2) the Plaintiffs' standing; and (3) the sufficiency of the Amended Complaint's allegations," be resolved before the Court and the parties expend, and potentially waste, significant resources. *Id.* at p. 3.

In the event discovery is not stayed, it will be lengthy, comprehensive and burdensome for the Defendants for several reasons. First, Plaintiffs have propounded separate voluminous initial discovery requests for all twenty-six (26) Defendants, all of whom reside in different states throughout the country. These requests, each consisting of approximately twenty (20) Interrogatories and forty-five (45) Requests for Production of Documents, seek specific information related to the facts asserted in the 217 paragraph, ten-count Amended Complaint.² *See* Pls.' Am. Compl. *generally*.

²While Plaintiffs' Opposition implies that they seek limited discovery, the Court should note that the discovery propounded by the Plaintiffs is by no means limited in scope. *See* Pls.' Opp. Mot. Stay at p. 2. In their Opposition to Defendants' Motion to Stay Discovery, Plaintiffs incorporate by reference their Memorandum of Points and Authorities in Support of Plaintiffs' Combined Rule 12 and 56(f) Motion Requesting Discovery Prior to Opposing Defendants' Motion to Dismiss, or, in the Alternative for Summary Judgment. The Court should note that Plaintiffs' Rule 12 and 56(f) Motion, filed on October 1, 2009, purports to seek limited discovery prior to Opposing Defendants' Motion to Dismiss, but actually

Moreover, AKA's size, the amount of records that it generates, and its out-of-state location are additional factors justifying a stay in this matter pending the potential streamlining of discovery pursuant to Defendants' Motion to Dismiss. By Plaintiffs' own admission, AKA has over 975 chapters in cities, colleges and universities throughout the world, a global membership of over 250,000 and a financially active membership in excess of 50,000. *See* Am. Compl. at ¶ 39. Given these facts, it is undisputed that AKA is a large non-profit corporation that no doubt generates extraordinary amounts of business records and correspondence just like any other large corporation. Put simply, given the pending Motion to Dismiss, and in the interests of judicial economy, it is appropriate that discovery be stayed in an effort to conserve the Court's and all parties' valuable resources and to avoid engaging in wasteful discovery.

wants full access to Defendants' corporate books. However, this Motion does not change the extent or scope of the discovery requests already propounded, which contain no limitations whatsoever, on all twenty six (26) Defendants.

WHEREFORE, the foregoing premises considered, Defendants respectfully request that this Honorable Court grant its Motion to Stay all discovery, including the time to file Defendants' answers and objections to Plaintiffs' discover requests, until resolution of Defendants' pending Motion to Dismiss and further Order of this Court.

Respectfully submitted,

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