

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SHERRIE JOHNSON, as administratrix)	
of the Estate of ALQUWON JOHNSON,)	
deceased,)	
Plaintiff,)	
v.)	
)	Case No. 2:12cv392-WHA
RYAN CONNER; SONYA MAYO;)	
BARBOUR COUNTY; GEORGE PARHAM;))	(wo)
BARBOUR COUNTY COMMISSION, et al.,))	
)	
Defendants.)	

ORDER

This cause is before the court on the Defendants’ Motion to Stay Discovery Pending Interlocutory Appeal Or, in the Alternative, Extend the Discovery Cut-Off (Doc. #58).

The Defendants have filed a Notice of Interlocutory Appeal regarding a denial of a Motion to Dismiss state law tort claims. The Defendants argue that the ruling from the appellate court could affect matters for purposes of discovery and the filing of a motion for summary judgment. The Defendants further state that counsel who has recently appeared in the case has recognized that there are numerous records to be obtained and may not be received before the discovery cut-off. As an alternative to staying discovery, the Defendants request a discovery cut-off date of the end of January 2013 or February 2013 so as not to alter the summary judgment and trial dates.

The Plaintiff objects. She argues that staying discovery at this time is premature, and that the Defendants were well-aware of the discovery cut off deadline at the time it was agreed to and memorialized in the Uniform Scheduling Order on June 19, 2012.

The filing of a notice of appeal confers jurisdiction on the court of appeals and divests the

district court of its control over those aspects of the case involved in the appeal. *Green Leaf Nursery v. E.I. DuPont De Nemours and Co.*, 341 F.3d 1292, 1309 (11th Cir. 2003). The district court may only proceed with portions of the case not related to the claims on appeal. *Id.*

While the Defendants have requested a stay only of discovery, or to move the discovery cut-off so as not to disturb the summary judgment or trial deadlines, the state law tort claims and the federal claims in this case arise from the same facts. The court finds no practical way to proceed only on claims not related to the claims on appeal. Therefore, the Motion is GRANTED to the following extent: it is hereby

ORDERED that this entire case is STAYED pending resolution of the interlocutory appeal.

Done this 8th day of November, 2012.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE