

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION**

**GREGORY W. MIMS,** )

**Plaintiff,** )

**vs.** )

**No. 5:13-CV-00672-CLS**

**TENNESSEE VALLEY  
AUTHORITY BOARD OF  
DIRECTORS,** )

**Defendant.** )

**MEMORANDUM OPINION AND ORDER**

This matter is before the court on defendants' motion to stay discovery, all Fed. R. Civ. P. 26 deadlines, and all Local Rule 26 deadlines pending resolution of defendant's motion for judgment on the pleadings.<sup>1</sup> Plaintiff opposes the motion, but has not filed a timely brief explaining his reasons for doing so.<sup>2</sup>

The Eleventh Circuit, in *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353 (11th Cir. 1997), made clear that "[f]acial challenges to the legal sufficiency of a claim . . . should . . . be resolved before discovery begins." *Id.* at 1367.

Such a dispute always presents a purely legal question; there are no issues of fact because the allegations contained in the pleading are presumed to be true. *See Mitchell v. Duval County Sch. Bd.*,

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<sup>1</sup>See doc. no. 11 (Motion to Stay), at 1; doc. no. 8 (Defendant's Brief in Support of Motion to Stay), at 1.

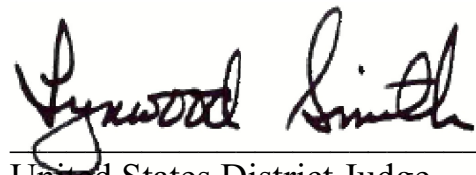
<sup>2</sup>See doc. no. 11 (Motion to Stay), at 1.

107 F.3d. 837, 838 n. 1 (11th Cir.1997) (*per curiam*). Therefore, neither the parties nor the court have any need for discovery before the court rules on the motion. *See Kaylor v. Fields*, 661 F.2d 1177, 1184 (8th Cir.1981).

*Chudasama*, 123 F.3d at 1367; *see also, e.g., McCabe v. Foley*, 233 F.R.D. 683, 685 (M.D. Fla. 2006) (applying *Chudasama*).

Accordingly, and upon consideration, defendant's motion is GRANTED, and discovery in this action is STAYED pending further order of this court.

DONE this 15th day of August, 2013.

  
United States District Judge