

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

UNITED STATES OF AMERICA)
ex rel. SAINT JOSEPH'S)
HOSPITAL, INC., and CANDLER)
HOSPITAL, INC.,)
)
and)
)
SAINT JOSEPH'S HOSPITAL, INC.,)
and CANDLER HOSPITAL, INC.,)
)
Plaintiffs,)
)
v.)
)
UNITED DISTRIBUTORS, INC.,)
UNITED DISTRIBUTORS INC.)
EMPLOYEE HEALTH BENEFIT)
PLAN, COMMERCE BENEFITS)
GROUP AGENCY, INC. d/b/a)
COMMERCE BENEFITS GROUP,)
INC., THOMAS J. PATTON, and)
LINNIE P. REAVES,)
)
Defendants.)

Case No. CV410-096

ORDER

Defendants move to stay discovery and pretrial deadlines pending resolution of their motions to dismiss (docs. 38, 39, 52, & 53) in this False Claims Act and ERISA case. (Docs. 61, 75.) Plaintiffs oppose the stay, asserting that the motions to dismiss are unlikely to succeed. (Doc. 66, 68.) Having looked over the motions, the Court agrees with plaintiffs; most of their claims appear likely to survive defendants' dismissal motions. *Arriaga-Zacarias v. Lewis Taylor Farms,*

Inc., 2008 WL 4544470 at *2 (M.D. Ga. Oct. 10, 2008) (“it may be helpful for the court to take a ‘preliminary peek’ at the merits of the dispositive motion to assess the likelihood that such motion will be granted”). Defendants’ reliance upon *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353 (11th Cir. 1997), is misplaced. This is not a case involving an “especially dubious” claim or impermissible “shotgun” pleadings. *Id.* at 1368. Further, plaintiffs may be prejudiced by a stay of discovery. *See Feldman v. Flood*, 176 F.R.D. 651, 652 (M.D. Fla. 1997) (“In deciding whether to stay discovery pending resolution of a pending motion, the Court inevitably must balance the harm produced by a delay in discovery against the possibility that the motion will be granted and entirely eliminate the need for such discovery.”). It has been more than three years since the events underlying plaintiffs’ claims occurred (doc. 1 at 4), so memories have likely already begun to fade. Accordingly, defendants’ motions to stay discovery and certain pretrial deadlines are **DENIED**.

Pursuant to Federal Rule of Civil Procedure 16(b) and the Local Rules of this Court, and after considering the motion to stay and the parties’ Rule 26(f) report, the Court imposes the following deadlines in the above styled case:

COMMENCEMENT OF DISCOVERY	<u>01/02/2012</u>
LAST DAY TO FURNISH EXPERT WITNESS REPORT by PLAINTIFF	<u>03/01/2012</u>

LAST DAY TO FURNISH EXPERT WITNESS REPORT by DEFENDANT	<u>04/02/2012</u>
JOINT STATUS REPORT DUE	<u>05/01/2012</u>
CLOSE OF DISCOVERY	<u>06/20/2012</u>
LAST DAY FOR FILING CIVIL MOTIONS EXCLUDING MOTIONS IN LIMINE	<u>07/20/2012</u>

Motions *in limine* shall be filed no later than 5 days prior to the pre-trial conference. The parties are further advised that all motions, other than summary judgment motions and motions to dismiss, shall be accompanied with a proposed order.

SO ORDERED this 22nd day of December, 2011.



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA