

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STUDENTS FOR FAIR ADMISSIONS,
INC.

Plaintiff,

v.

PRESIDENT AND FELLOWS OF
HARVARD COLLEGE (HARVARD
CORPORATION)

Defendant.

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14-cv-14176-ADB

ORDER

BURROUGHS, D.J.

The Proposed Defendant-Intervenors’ Motion to Stay [ECF No. 90] is ALLOWED IN PART and DENIED IN PART. A partial stay will remain in effect until the Court of Appeals for the First Circuit resolves whether the Proposed Defendant-Intervenors have a right to intervene as parties in this litigation. Although the Court does not believe that the Proposed Defendant-Intervenors’ appeal has divested this Court of jurisdiction, the Court finds that granting a partial stay would serve the interests of judicial economy and guard against potential prejudice. The terms of the partial stay are as follows:

1. Notwithstanding the partial stay, Harvard shall produce, consistent with its representations at the July 21, 2015 status conference before the Court, documents concerning Harvard’s undergraduate admissions policies and procedures, including Harvard’s training manuals and any reader instructions with respect to its undergraduate admissions policies and procedures. Harvard shall also produce general information regarding its alumni interviewer program. In addition, Harvard

shall produce electronic admissions data (database information) from its admissions database for the two most recent complete admissions cycles, including identification of the database fields, and including database information for transfer applicants.¹

2. Discovery is otherwise stayed until the First Circuit resolves the Defendant-Intervenors' pending appeal. No depositions shall go forward, and Harvard shall not be required to produce any actual application files at this time.²

Harvard's Motion to Stay [ECF No. 58] is also ALLOWED IN PART and DENIED IN PART. After the First Circuit resolves the Proposed Defendant-Intervenors' pending appeal, this Court will enter a further partial stay of proceedings that will remain in effect until the United States Supreme Court resolves *Fisher v. University of Texas*, No. 14-981, *cert. granted*, 135 S.Ct. 2888 (U.S. June 29, 2015), or until further order of this Court. Both parties are hereby ordered to submit, jointly or separately, no later than October 23, 2015, written proposals concerning what additional discovery each believes should go forward during the *Fisher* stay. As a general guideline, the Court is inclined to allow discovery to proceed, but not require Harvard to produce individual student or applicant files. After reviewing the parties' proposals, the Court will issue a separate order outlining the terms of the *Fisher* stay.

SO ORDERED.

Dated: October 9, 2015

/s/ Allison D. Burroughs
ALLISON D. BURROUGHS
DISTRICT JUDGE

¹ With regard to the production of admissions data, the parties are urged to resolve any disputes pertaining to potential privacy issues. If they are unable to do so, the parties may notify the Court and request a status conference.

² In light of this ruling, Harvard's Emergency Motion for a Protective Order and a Temporary Stay of Depositions [ECF No. 104] is DENIED AS MOOT.