

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION

HARRY W. SIMMONS

PLAINTIFF

V.

CAUSE NO. 3:17CV044-MPM-JMV

PANOLA COUNTY, MISSISSIPPI,  
JOHN THOMAS and COLE FLINT,  
in their individual capacities

DEFENDANTS

**AGREED ORDER GRANTING UNOPPOSED  
MOTION TO LIFT STAY AND PERMIT CASE TO PROCEED**

THIS MATTER HAVING COME before the Court on the Unopposed Motion to Lift Stay and Permit Case to Proceed [D.E. 15], and the Court considering the Motion and finding that the parties are in agreement as to the relief requested therein, does hereby ORDER as follows:

On April 4, defendants Thomas and Cole filed their respective Motions to Dismiss [D.E. 10 and 12], asserting that they were immune under the Mississippi Tort Claims Act for the state-law, individual capacity claims asserted against them.

On April 5, 2017, this Court entered its Order Staying Certain Proceedings [D.E. 14] pursuant to Local Uniform Civil Rule 16(b)(3)(B) which provides that motions asserting immunity defenses will stay the attorney conference, disclosure requirements and all discovery pending the Court's ruling on the motion(s).

Local Uniform Civil Rule 16(b)(3)(B) provides as follows:

Whether to permit discovery on issues related to the motion and whether to permit any portion of the case to proceed pending resolution of the motion are decisions committed to the discretion of the court, upon motion by any party seeking relief.

The defendants, joined by plaintiff, have moved to permit the case to proceed into pre-discovery

matters and general discovery pending resolutions of the pending Motions to Dismiss by Thomas and Flint [D.E. 10 and 12].

Pursuant to this Court's discretion granted by Local Uniform Civil Rule 16(b)(3)(B), and noting the agreement of the parties to proceed, this Court hereby Orders that the stay provided in its "Order Staying Certain Proceedings" [D.E. 14] is hereby lifted and that the case will proceed on the usual case management track with a Rule 16 Initial Order to be entered as soon as possible and subsequent discovery management to follow. The Court finds that defendants Thomas and Flint's assertion of immunity is not waived by entry of this Order nor their agreement thereto.

SO ORDERED, this the 13th day of April, 2017.

/s/ Jane M. Virden  
UNITED STATES MAGISTRATE JUDGE

Agreed to:

/s/Mitchell O. Driskell, III  
WILTON V. BYARS, III - BAR #9335  
MITCHELL O. DRISKELL, III - BAR # 100079  
*Attorneys for Defendants*

/s/Jim Waide  
JIM WAIDE - BAR#6857  
*Attorney for Plaintiff*