

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

NO.: 4:08-CV-173-H

GARY JOSEPH STODDARD and his )  
wife PATRICIA ANN STODDARD, )  
 )  
Plaintiffs, )  
 )  
 )  
v. )  
 )  
 )  
PLIVA USA, INC., )  
 )  
Defendant. )

**ORDER**

This matter is before the court on defendant's emergency motion to stay [DE #74]. Defendant asserts that this matter involves conflict preemption issues that are currently being considered by other courts and requests the court to stay this action until such time as the Food and Drug Administration ("FDA") files its briefs in connection with those other cases.<sup>1</sup> Plaintiff opposes a stay, arguing that a stay of the proceedings would serve no legitimate purpose because the FDA's opinion on the issue of preemption is not entitled to deference and will not provide answers to pivotal issues in the case as defendant

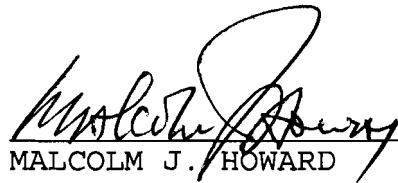
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<sup>1</sup> Defendant states that the Supreme Court and the Sixth Circuit Court of Appeals have both invited the FDA to file briefs expressing the views of the United States on issues involved in this case.

suggests. Plaintiff further argues that any stay of the proceedings would be indefinite and would significantly harm the rights of plaintiff.

The court has carefully considered the parties' arguments and finds no sufficient basis for staying this action. Defendant's motion [DE #74] is, therefore, DENIED.

This 29<sup>th</sup> day of June 2010.



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MALCOLM J. HOWARD  
Senior United States District Judge

At Greenville, NC  
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