

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**ZABRIEL L. EVANS,**

**Plaintiff,**

v.

**CASE NO. 18-3193-SAC**

**DAN SCHNURR, et al.,**

**Defendants.**

**ORDER**

This matter is before the Court on a Motion to Stay Discovery and Related Rule 26 Activities filed by Defendants Burris, Schnurr, Foster, Darter, and Chick (ECF No. 43). Defendants request an order staying all discovery in this case and other related Rule 26 proceedings until the Court rules on their Motion to Dismiss or, in the Alternative, for Summary Judgment.

The District of Kansas has a general policy that a pending dispositive motion does not require a stay of discovery. *See Wolf v. United States*, 157 F.R.D. 296, 297-98 (D. Kan. 1994). There are four exceptions to this policy, namely, discovery may be stayed if the case is likely to be resolved through the dispositive motion; the facts to be developed through discovery would not affect the resolution of the dispositive motion; the discovery would be unduly burdensome; or the dispositive motion presents issues concerning a defendant's immunity from suit. *Citizens for Objective Public Education Inc. v. Kansas State Bd. of Educ.*, 2013 WL 6728323, \*1 (D. Kan. Dec. 19, 2013); *see also Kutilek v. Gannon*, 132 F.R.D. 296, 297-98 (D. Kan. 1990).

In this case, Defendants assert a defense of Eleventh Amendment immunity as well as qualified immunity, and the Court grants the request to stay discovery. *See Siefert v. Gilley*, 500 U.S. 226, 232-33 (1991) (discovery and pretrial proceedings should not go forward until threshold immunity question is resolved); *Workman v. Jordan*, 958 F.2d 332, 336 (10<sup>th</sup> Cir. 1992)(where defendant asserts qualified immunity defense, court should grant request to stay discovery pending ruling on that issue).

**IT IS THEREFORE ORDERED** that Defendants' Motion to Stay Discovery and Related Rule 26 Activities (ECF No. 43) is **granted**. Discovery and related proceedings under Fed. R. Civ. P. 26 are stayed pending a ruling on Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment (ECF No. 40).

**IT IS SO ORDERED.**

**Dated in Topeka, Kansas, on this 9<sup>th</sup> day of September, 2019.**

s/ Sam A. Crow  
**SAM A. CROW**  
**U. S. Senior District Judge**