

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

Civil Action No. 1:23-cv-01351-RMR-STV

GRCO LLC, a Missouri limited liability company,

Plaintiff,

v.

GRANBY RANCH METROPOLITAN DISTRICT, a quasi-municipal corporation  
and political subdivision of the State of Colorado,

Defendant.

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**DEFENDANT’S MOTION TO STAY**

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Defendant Granby Ranch Metropolitan District, by and through undersigned counsel, hereby moves to stay all proceedings and discovery pending resolution of its Motion to Dismiss.

**CERTIFICATION PURSUANT TO D.C.COLO.LCivR 7.1**

Undersigned counsel conferred with Plaintiff’s counsel Andrew Glenn regarding the relief requested in this Motion. Mr. Glenn opposes the relief requested in this Motion.

**ARGUMENT**

**THE *STRING CHEESE* FACTORS USED TO DETERMINE DISCRETIONARY  
MOTIONS TO STAY DISCOVERY FAVOR A STAY**

1. This action concerns a developer’s suit against a Title 32 special district for imposition of a Capital Facilities Fee (a one-time per lot/parcel charge collected from the property owner prior to building thereon) that has been in effect for close to two decades. In its Amended Complaint, Plaintiff asserts nine claims for alleged violations of state statutes, the United States Constitution and instruments related to the imposition of the fees and seeks monetary damages and equitable relief. [Doc. No. 15].

2. Defendant filed a Motion to Dismiss Plaintiff's Amended Complaint pursuant to Fed.R.Civ.P. 12(b)(6) ("Motion") on July 28, 2023. [Doc. No. 19]. In its Motion, Defendant argues that all nine of Plaintiff's claims fail on numerous grounds including lack of standing and statute of limitations.

3. For the reasons described below, a stay of discovery is appropriate until such time as the Court rules on Defendant's Motion to Dismiss. Defendant should not be subjected to costly discovery given the distinct possibility that Plaintiff's Amended Complaint will be dismissed.

4. The following five factors are typically considered when a party moves to stay discovery: (1) the plaintiff's interest in expeditiously litigating this action and the potential to plaintiff of a delay; (2) the burden on the defendants; (3) the conveniences to the court; (4) the interests of persons not parties to the civil litigation; and (5) the public interest. *String Cheese Incident, LLC v. Stylus Shows, Inc.*, 02-cv-01934-LTB-PAC, 2006 U.S. Dist. LEXIS 97388, at \*2 (D. Colo. Mar. 30, 2006).

5. Each *String Cheese* factor favors issuance of a stay of all proceedings and discovery pending resolution of Defendant's Motion to Dismiss.

6. **Plaintiff's Interest.** A stay will not interfere with Plaintiff's interest in the expeditious litigation of this lawsuit. The majority of the key evidence in this case, attached as Exhibits 1 through 8 to the Amended Complaint, is unlikely to be affected by a stay. Indeed, it is in both Plaintiff's and Defendant's interests to determine if Plaintiff has asserted any cognizable claims against Defendant.

7. **Burden on Defendant.** The burden on Defendant will be great should discovery proceed. Defendant, a governmental entity, will be required to expend both financial and human resources during written discovery and deposition practice, all of which would be rendered moot

should the Court grant Defendant's Motion to Dismiss. Moreover, even if Defendant's Motion to Dismiss is only granted in part, the narrowing of claims would likely streamline discovery and therefore lessen the costs of litigation for both Plaintiff and Defendant. *See e.g., Pembroke v. Trans Union, LLC.*, Civil Action No. 16-cv-03194-CMA-STV, 2017 U.S. Dist. LEXIS 232995, at \*5 (D. Colo. May 5, 2017)(finding that the second *String Cheese* factor supported a stay because the narrowing of Defendants via pending motions to dismiss could simplify discovery and lessen costs for all parties).

8. **Convenience to the Court.** Staying all discovery furthers the interests of judicial economy and will be more convenient to the Court than proceeding with discovery. Defendant recognizes that stays of discovery in this District are generally disfavored. *Stone v. Vail Resorts Dev. Co.*, No. 09-cv-02081-WYD-KLM, 2010 U.S. Dist. LEXIS 8765, at \*1 (D. Colo. Jan. 7, 2010). "However, courts have acknowledged that '[w]here a pending motion may dispose of an action . . . a stay of proceedings may allow the Court to avoid expending resources in managing an action that ultimately will be dismissed.'" *Pembroke*, 2017 U.S. Dist. LEXIS 232995, at \*5 citing *Stone*, 2010 U.S. Dist. LEXIS 8765, at \*3. This case is in the very early stages of litigation - a scheduling conference has not yet been conducted, and Defendant's Motion to Dismiss, if granted, would dispose of this case. Neither the Court's time nor the parties' time is well-served by being involved in potential discovery motions and other discovery disputes when a dispositive motion is pending.

9. **Interests of Non-Parties.** The interests of persons not parties to this lawsuit will not be harmed by the requested stay. It is likely that third parties will be subject to subpoenas and requests for production of documents. The need to conduct such discovery may be entirely eliminated, or severely reduced in breadth and scope by Defendant's Motion to Dismiss. Persons

not parties to this lawsuit have an interest in not being burdened by unnecessary subpoenas and document requests.

10. **The Public Interest.** While the public has an interest in the speedy resolution of legal disputes, the public's interest in this lawsuit is preserved by the requested stay. The public has an interest in "conserving public resources and the efficient functioning of government." *Eggert v. Chaffee County*, No. 10-cv-01320-CMA-KMT, 2010 U.S. Dist. LEXIS 95245, at \*14 (D. Colo. August 25, 2010). Resolution of Defendant's Motion to Dismiss, even if granted only in part, "will clarify and streamline the claims...for more precise and productive discovery - conserving judicial resources and furthering the public's interest in judicial economy." *Pembroke*, 2017 U.S. Dist. LEXIS 232995, at \*6 citing *Garcia v. Adams Cty., Colorado*, No. 16-cv-1977-PAB-NYW, 2017 U.S. Dist. LEXIS 33162, at \*4 (D. Colo. Mar. 8, 2017). Before Defendant is forced to engage in protracted litigation and discovery activities, the Court should have an opportunity to fully assess Plaintiff's claims to conserve public resources and efficient functioning of government.

11. For the foregoing reasons, Defendant respectfully requests that the Court stay all proceedings and discovery pending resolution of its Motion to Dismiss.

WHEREFORE, Defendant Granby Ranch Metropolitan District respectfully requests that this Motion to Stay be granted and that all proceedings and discovery be stayed pending resolution of its Motion to Dismiss.

Dated this 28<sup>th</sup> day of July 2023.

Respectfully submitted,

*s/ William T. O'Connell, III*

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*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 28, 2023, I electronically filed the foregoing, **DEFENDANT'S MOTION TO STAY** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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**ORDER GRANTING DEFENDANT’S MOTION TO STAY**

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This matter comes before the Court upon the Defendant’s Motion to Stay. The Court having reviewed the Motion and being fully advised, finds that good cause exists for granting the relief requested.

IT IS THEREFORE ORDERED that the Motion is granted. All proceedings and discovery in this matter are stayed pending resolution of the Defendant’s Motion to Dismiss.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2023.

BY THE COURT:

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United States Magistrate Judge