

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

Shirley Williams,
Gale Pelfrey,
Bonnie Jones, and
Lora Sisson, individually
and on behalf of a class,

Plaintiffs,

v.

CIVIL ACTION FILE
NO. 4:04-CV-0003-HLM

Mohawk Industries, Inc.,

Defendant.

ORDER

This is a class action alleging violations of the federal and Georgia Racketeer Influenced Corrupt Organizations Acts ("RICO"). The case is before the Court on Plaintiffs' Motion for Discovery [77].

I. Background

On January 6, 2004, Plaintiffs filed this lawsuit. Plaintiffs are current and former hourly employees of Defendant who claim that Defendant's alleged employment and harboring of illegal aliens has depressed their wages. Plaintiffs assert the following claims: (1) a claim that Defendant's conduct violates 18 U.S.C.A. § 1962(c) (Compl. ¶¶ 88-92); (2) a claim that Defendant's conduct violates O.C.G.A. § 16-14-4(a) (id. ¶¶ 93-98); (3) a claim that Defendant's conduct violates O.C.G.A. § 16-14-4(c) (id. ¶¶ 99-105); and a claim for unjust enrichment arising under Georgia law (id. ¶¶ 106-110). Plaintiffs also seek certification of a class pursuant to Federal Rule of Civil Procedure 23. (Id. ¶ 46.)

On February 9, 2004, Defendant filed a Motion to Dismiss. Defendant requested that the Court dismiss Plaintiffs' federal and state RICO claims. Defendant also requested that the Court decline to exercise its pendent jurisdiction over Plaintiffs' state law claims.

On April 12, 2004, the Court granted in part and denied in part Defendant's Motion to Dismiss. (Order of Apr. 12, 2004.) The Court denied the Motion to Dismiss with respect to Plaintiffs' federal and Georgia RICO claims and with respect to Plaintiff's unjust enrichment claim relating to Defendant's wage savings in employing Plaintiffs at a reduced rate, but granted the Motion to Dismiss with respect to Plaintiffs' unjust enrichment claim relating to Defendant's savings with respect to workers' compensation claims. (Id.)

On May 27, 2004, the Court granted Defendant's request to certify its April 12, 2004, Order for an interlocutory appeal. (Order of May 27, 2004.) The Court also stayed discovery pending resolution of the interlocutory appeal. (Id.)

On June 9, 2005, the United States Court of Appeals for the Eleventh Circuit entered an Order affirming in part and reversing in part the Court's ruling on the Motion to Dismiss. Williams v. Mohawk Indus., Inc., 411 F.3d 1252 (11th Cir. 2005). The Eleventh Circuit affirmed the Court's decision with respect to Plaintiffs' RICO claims, but reversed the Court's denial of the Motion to Dismiss with respect to Plaintiffs' unjust enrichment claims based on Defendant's wage savings in employing Plaintiffs at a reduced rate. Id.

Defendant filed a petition for rehearing en banc with the Eleventh Circuit. On July 29, 2005, while that petition remained pending before the Eleventh Circuit, Plaintiffs filed a Motion to Lift the Stay of Discovery in this Court.

On August 8, 2005, the Eleventh Circuit denied Defendant's petition for rehearing en banc. On August 11, 2005, Defendant filed a Motion to Continue the Stay of Discovery Pending its Petition for Certiorari.

On August 16, 2005, the Eleventh Circuit issued its mandate in the case. On August 18, 2005, the Eleventh Circuit returned the record on appeal to the Court.

On August 18, 2005, the Court entered an Order staying discovery in this case until the Supreme Court either denied Defendant's petition for a writ of certiorari or granted Defendant's petition and decided the case on its merits.

(Order of Aug. 18, 2005.) On October 7, 2005, Defendant filed a petition for certiorari with the Supreme Court, raising the following questions for review: (1) whether a defendant corporation and its agents can constitute an enterprise under RICO; and (2) whether Plaintiffs had stated proximately caused injuries to business property by alleging that the hourly wages they accepted were too low. On December 12, 2005, the Supreme Court granted certiorari as to the first question presented in the petition. Mohawk Indus., Inc. v. Williams, 126 S. Ct. 830 (2005).

On April 25, 2006, the Supreme Court held oral arguments in the case. On June 5, 2006, the Supreme Court dismissed the writ of certiorari limited to the first question contained in the petition for certiorari as improvidently granted, granted the petition for certiorari, and

remanded the case to the Eleventh Circuit for further consideration in light of Anza v. Ideal Steel Supply Corp., 126 S. Ct. 1991 (2006). Mohawk Indus., Inc. v. Williams, 126 S. Ct. 2016 (2006).

On September 27, 2006, the Eleventh Circuit issued an opinion concluding that the Court properly denied Defendant's Motion to Dismiss as to Plaintiffs' federal and state RICO claims. Williams v. Mohawk Indus., Inc., 465 F.3d 1277 (11th Cir. 2006). The Eleventh Circuit remanded the case to this Court "for further proceedings." Id. at 1295.

On October 9, 2006, Defendant filed a petition for rehearing en banc. On November 22, 2006, the Eleventh Circuit denied Defendant's petition for rehearing en banc. On November 30, 2006, the Eleventh Circuit issued its mandate.

On December 13, 2006, Plaintiffs filed their Motion for Discovery. Plaintiffs request that the Court issue an Order confirming that the stay of discovery in this case has expired according to its terms and directing the parties to proceed with discovery according to the terms outlined in the March 15, 2004, scheduling order entered by the Court.

On December 19, 2006, Defendant filed a second petition for a writ of certiorari with the Supreme Court. On January 2, 2007, Defendant filed its response in opposition to Plaintiff's Motion for Discovery, arguing that the Court should stay discovery in this case until the Supreme Court denies Defendant's petition for a writ of certiorari or rules on the merits of the case.

II. Discussion

Plaintiffs have requested that the Court confirm that the discovery stay imposed by the August 18, 2005, Order has expired, and that the Court allow Plaintiffs to conduct discovery as outlined in the March 2004 scheduling order. Plaintiffs argue that: (1) their "claims have already been submitted to far greater appellate scrutiny than would ordinarily occur after final judgment," (Pl.'s Br. Supp. Mot. Discovery at 4); (2) further delay is no longer appropriate because the Eleventh Circuit has issued a mandate directing the Court to continue with the case, and Defendant must request any further stays from the Eleventh Circuit or from the Supreme Court, (*id.* at 4-5); (3) the violations of federal law alleged by Plaintiffs are longstanding and ongoing, (*id.* at 5); and (4) the Eleventh Circuit repeatedly

has confirmed the Court's conclusion that Plaintiffs' Complaint states a claim for which relief can be granted, and the likelihood that the Supreme Court will grant a second petition for a writ of certiorari in the case is remote.

Defendant, in turn, argues that a substantial probability exists that the Supreme Court will review at least one of the legal issues raised by its petition for a writ of certiorari, and that the Supreme Court will likely decide whether to grant the petition by the end of February 2007. Defendant contends that a further, modest delay of discovery will not prejudice Plaintiffs in the event that the Supreme Court denies the petition, and that a stay of discovery will conserve the resources of the parties and the Court in the event that the Supreme Court grants certiorari and ultimately dismisses Plaintiffs' federal RICO claim.

For the following reasons, the Court finds that Plaintiffs' argument that 28 U.S.C.A. § 2101(f) prohibits the Court from entering another stay of discovery is misplaced. 28 U.S.C.A. § 2101(f) provides:

In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and may be conditioned on the giving of security, approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay.

28 U.S.C.A. § 2101(f). First, the opinion at issue is not a final judgment, but instead resolves an interlocutory appeal. Second, Defendant does not seek a stay of the Eleventh Circuit's mandate in the case, but instead simply seeks a stay of discovery. The Eleventh Circuit simply returned the case to this Court "for further proceedings." Although those further proceedings likely will include conducting discovery, the Eleventh Circuit's opinion contained no guidelines concerning discovery and did not purport to limit the Court's inherent ability to manage the discovery proceedings in the case. Consequently, 28 U.S.C.A. § 2101(f) does not prohibit the Court from entering a stay of discovery in the case.

Additionally, as discussed in the August 18, 2005, Order, the Court cannot agree with Plaintiffs that Supreme

Court review of this case is highly unlikely. Even after the Supreme Court's decision in Anza, a substantial ground for difference of opinion exists as to whether the Eleventh Circuit correctly applied Anza to Plaintiffs' allegations, as to the RICO enterprise issue, and as to the RICO proximate cause issue. The Supreme Court very well may choose to grant certiorari with respect to at least one of those issues. If the Supreme Court ultimately issues a ruling that would result in the dismissal of Plaintiff's federal RICO claim, this Court likely would choose to decline supplemental jurisdiction over Plaintiffs' Georgia RICO claim, thus making discovery in this Court concerning Plaintiffs' claims unnecessary.¹

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The Court generally declines to exercise supplemental jurisdiction in a federal question case after the resolution of the federal claims unless circumstances exist that make

The Court acknowledges that Plaintiffs argue that Defendant's alleged misconduct is ongoing, and that Plaintiffs are continuing to suffer damages. However, given that the Supreme Court is likely to resolve Defendant's petition for certiorari within a very short period of time, the Court finds that Plaintiffs will suffer little, if any, prejudice from a stay of discovery pending the resolution of Defendant's petition.

Given the above circumstances, the Court finds that staying discovery pending the resolution of Defendant's petition for a writ of certiorari will conserve the parties' resources and the resources of the Court, and will not

exercising supplemental jurisdiction appropriate. The Court, however, need not, and does not, determine at this point whether it ultimately would decline to exercise supplemental jurisdiction in this case if the Supreme Court dismisses Plaintiffs' federal claim.

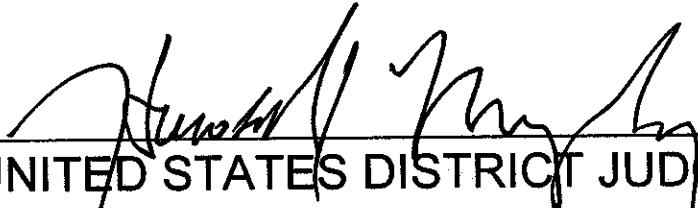
significantly prejudice Plaintiffs. The Court therefore grants Defendant's Motion to Stay Discovery Pending its Petition for Certiorari, and stays discovery in this case until the Supreme Court either (a) denies Defendant's petition for a writ of certiorari or (b) decides the case on the merits after granting Defendant's petition.

III. Conclusion

ACCORDINGLY, the Court **DENIES** Plaintiffs' Motion for Discovery [77]. The Court **STAYS** discovery in this case until the Supreme Court either (a) denies Defendant's petition for a writ of certiorari or (b) decides the case on the merits after granting Defendant's petition. The Court stays the period of time for Defendant to respond to any discovery

requests that Plaintiffs may have served in accordance with this Order.

IT IS SO ORDERED, this the 16th day of January, 2007.


UNITED STATES DISTRICT JUDGE