UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

SISTERREACH, INC., et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	**Case No. 2:24-cv-02446-SHR-tmp**
	)	**District Judge Sheryl H. Lipman**
JONATHAN SKRMETTI, et al.,	)	**Magistrate Judge Tu M. Pham**
	)	
Defendants.	)	

RESPONSE TO PLAINTIFFS' MOTION FOR SCHEDULING CONFERENCE

Defendants respectfully submit that a Rule 16 scheduling conference and the initiation of discovery would be premature at this juncture. Plaintiffs' motion [ECF 42] should thus be denied.

Courts have discretion to delay setting a preliminary scheduling conference where there is "good cause" for doing so. *See* W.D. Tenn. L.R. 16(b)(4) (requirement that the court set a scheduling conference within certain time after service or appearance of a defendant does not apply where the "Judge finds good cause for delay"); *see also* Fed. R. Civ. P. 16(b)(2) (deadline for issuing scheduling order inapplicable where the "judge finds good cause for delay"). Indeed, a district court has the power "to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936).

Good cause clearly supports this Court's delaying the preliminary scheduling conference in this case until after it adjudicates Defendants' pending motion to dismiss. Defendants have asserted that this Court lacks jurisdiction due to Plaintiffs' lack of standing and Defendants' own sovereign immunity. *See* MTD Mem., ECF 35 at PageID# 891-95; MTD Reply, ECF 40 at 995-98. The Court is well within its discretion to postpone discovery until after it has addressed those threshold issues of justiciability. *See, e.g.*, *Sault St. Marie Tribe of Chippewa Indians v. State of Mich.*, 5 F.3d 147, 149-50 (6th

Cir. 1993) (sovereign immunity is "immunity from suit itself, not just liability"). Defendants also have sought dismissal based on the complaint's failure to state a plausible claim upon which relief can be granted. MTD Mem., ECF 35 at 895-906; MTD Reply, ECF 40 at 998-1004. When a "complaint is deficient" for any reason, the plaintiff "is not entitled to discovery, cabined or otherwise." *Ashcroft v. Iqbal*, 556 U.S. 662, 686 (2009). Requiring the parties to proceed with discovery before these threshold jurisdictional and pleading-sufficiency issues have been decided would be unfairly prejudicial to Defendants—all of whom are public servants.

Even if the Court ultimately finds that any of Plaintiffs' claims should be allowed to proceed, an early ruling on the merits of a case can "streamline litigation" by crystalizing the issues and "dispense with needless … factfinding." *Neitzke v. Williams*, 490 U.S. 319, 319 (1989). It would thus serve judicial economy—and the interests of *all* parties—to postpone the preliminary scheduling conference and the initiation of discovery until the Court has resolved the pending motion to dismiss.

For all the foregoing reasons, Defendants respectfully request that Plaintiffs' motion for a scheduling conference be denied as premature.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2024, a copy of the foregoing document was filed using the Court's electronic court-filing system, which sent notice to the following counsel:

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