

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MICHAEL DRIVER,
TERRY CLAYTON,
MICHAEL BOYD,
NICHOLAS SWORDS,
ROY SHOFNER,

Plaintiffs,

vs.

MARION COUNTY SHERIFF,
CONSOLIDATED CITY OF
INDIANAPOLIS AND MARION COUNTY,

Defendants.

No. 1:14-cv-02076-RLY-MJD

REPORT AND RECOMMENDATION

This matter comes before the Court on Plaintiffs' motion to stay proceedings in this matter. [Dkt. 178.] Plaintiff seeks to stay the matter pending an interlocutory appeal of the Court's order denying in part Plaintiffs' motion for class certification. Plaintiffs' primary argument relates to their upcoming expert witness disclosure deadline, as the scope and substance of the required disclosures could be materially affected by a decision expanding the scope of the class in this matter. Defendant objects, arguing that a stay is premature.

The Court, while acknowledging and supporting Defendants' desire to move this case forward, agrees with Plaintiffs that judicial economy and the best interests of this matter are not advanced by requiring Plaintiffs to serve their expert reports while a request for an interlocutory appeal is pending. *See* Fed. R. Civ. P. 23(f) ("An appeal does not stay proceedings in the district court unless the district judge or the court of appeals so orders."); *Blair v. Equifax Check Servs.*,

Inc., 181 F.3d 832, 835 (7th Cir. 1999) (determining whether a stay is appropriate under Rule 23(f) requires weighing whether “the costs of pressing ahead in the district court exceed the costs of waiting”). If the request is denied, any delay should be brief. If the appeal is allowed and granted, requiring Plaintiffs to materially revise their expert reports would be extraordinarily inefficient. Accordingly, the Magistrate Judge recommends that Plaintiffs’ motion to stay this matter pending the resolution of their interlocutory appeal be **GRANTED**.

Any objections to the Magistrate Judge’s Report and Recommendation shall be filed with the Clerk in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), and failure to timely file objections within fourteen days after service shall constitute a waiver of subsequent review absent a showing of good cause for such failure.

Dated: 05 DEC 2016

A handwritten signature in black ink, appearing to read "Mark J. Dinsmore", is written over a horizontal line.

Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

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