

The motion is GRANTED. Should this matter continue with an amended complaint, and should the issues raised in Plaintiffs' motion to compel (Doc. No. 59) remain in dispute, Plaintiffs shall file an amended motion to compel or a supplemental motion that addresses the issues in the context of the amended pleading.

Alistair E. Newbern

Alistair E. Newbern
U.S. Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TENNESSEE STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

WILLIAM B. LEE, in his official capacity as
Governor of the State of Tennessee, *et al.*,

Defendants.

Case No. 3:23-cv-00832

Judge Eric Murphy

Judge Eli Richardson

Judge Benita Pearson

**SUBPOENA RECIPIENTS' UNOPPOSED MOTION
TO HOLD ALL PENDING DISCOVERY MOTIONS IN ABEYANCE**

On August 21, 2024, this Court granted the Defendants' motion to dismiss and dismissed the Complaint in its entirety. Doc. 75 at 49. Plaintiffs have until September 20, 2024, to consider whether to amend their complaint in light of this Court's analysis. *Id.* The Subpoena Recipients now move the Court to hold in abeyance all outstanding discovery motions, which have been referred to the magistrate judge, *see* Docs. 57, 59, 62-64, pending clarity regarding whether and how Plaintiffs intend to continue to pursue this case.

These pending discovery motions are moot because there is no current claim at issue and will remain moot if Plaintiffs do not file an amended complaint. "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). Because the Court dismissed the Complaint in its entirety, there is no longer any claim or defense before the Court, and thus, no party is entitled to discovery. *Id.*; *see Ziss Bros. Const. Co. v. City of Indep., Ohio*, 439 F. App'x 467, 480 (6th Cir. 2011) (noting that plaintiffs are "not entitled to discovery" on claims dismissed as insufficiently pleaded).

Holding the motions in abeyance also would further judicial economy and preservation of the parties' and court's resources. Assessing and resolving motions that are currently moot in an action that may well end in a matter of weeks would benefit neither the court nor the parties. Even if Plaintiffs express an intent to attempt to amend their complaint, any such amendments would have the potential to alter the factual and legal bases for the pending discovery motions. Moving forward on these motions now thus risks needless duplication should a second round of briefing be necessary to resolve new discovery arguments on a new set of pleadings. See *Kucera v. Jefferson Cnty. Bd. of Sch. Comm'rs*, No. 3:03-CV-593, 2013 WL 5701674, at *1 (E.D. Tenn. Oct. 18, 2013) (noting courts “possesses the authority to hold a motion in abeyance if resolution of a pending matter will help clarify the current issues or make currently disputed issues moot” (citation omitted)); see also *Fed. Trade Comm'n v. ACRO Servs. LLC*, No. 3:22-CV-895, 2023 WL 4504594, at *2 (M.D. Tenn. May 1, 2023) (holding a motion in abeyance because other developments might render it moot).

Counsel for Subpoena Recipients consulted with Plaintiffs on August 30, 2024, and they do not oppose this motion.

Thus, this motion should be granted, and the discovery motions should be held in abeyance until after September 20, at which point—if no amended complaint has been filed—they should be denied as moot.

Respectfully submitted,

JONATHAN SKRMETTI
Attorney General and Reporter

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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2024, the undersigned filed the foregoing document via this Court’s electronic filing system, which sent notice of such filing to the following counsel of record:

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/s/ Miranda Jones
Senior Assistant Attorney General